Journal of the House

State of Indiana

114th General Assembly — First Regular Session

Twenty-third Meeting Day — **Thursday Afternoon** — **February 24, 2005**

The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Reverend Frank Hibbard, First Christian Church, Noblesville, the guest of Representative Kathy Kreag Richardson.

The Pledge of Allegiance to the Flag was led by Representative Richardson.

The Speaker ordered the roll of the House to be called:

T. Adams	Klinker
Aguilera	Koch
Alderman	Kromkowski
Austin	Kuzman
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Bauer	J. Lutz
Becker	Mahern
Behning	Mays
Bischoff	McClain
Borders	Messer
Borror	Micon
Bottorff	Moses
Bright	Murphy
C. Brown	Neese
T. Brown	Noe
Buck	Orentlicher
Budak	Oxley
Buell	Pelath
Burton	Pflum
Cheney	Pierce
Cherry	Pond
Cochran	Porter
Crawford	Reske
Crooks	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Ulmer
Gutwein	VanHaaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins
Hoffman	Woodruff
Hoy	Yount
Kersey	Mr. Speaker

Roll Call 184: 100 present. The Speaker announced a quorum in attendance.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolution 17 and the same is herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Monday, February 28, 2005 at 10:00 a.m.

WHETSTONE

Motion prevailed.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:50 p.m. with the Speaker Pro Tempore, Representative Turner, in the Chair.

Representatives Becker, Kromkowski, and Ripley were excused for the rest of the day.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolution 15 and the same is herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 18

Representatives Tincher and Kersey introduced House Concurrent Resolution 18:

A CONCURRENT RESOLUTION honoring firefighters Hidekatsu Kajitani, Battalion Chief Paul Watson, and Deputy Chief Darrick Scott.

Whereas, Three brave firefighters risked their lives and exposed their bodies to the extreme cold of an Indiana winter to save an injured man hanging 475 feet above them on a radio telephone tower;

Whereas, On Tuesday, January 18 at 12:58 p.m., the emergency dispatch call came into the Sugar Creek Fire Department in West Terre Haute;

Whereas, Upon arriving at the scene, firefighters found a man, whose condition was unknown, hanging three-fourths of the way up a 625 foot tower;

Whereas, Without thought for their own safety, the firefighters began their climb;

Whereas, Hidekatsu Kajitani, known as Kaji to his friends and coworkers, went first, followed by Battalion Chief Paul Watson, who climbed about halfway up, and Deputy Chief Darrick Scott;

Whereas, Kaji, 26, who came to the United States eight years ago to study criminology at Indiana State University, took emergency medical training as part of earning his bachelor's degree, which he believes helped him receive the position with Sugar Creek Fire

Department;

Whereas, While living in his native Japan, Kaji had some experience in rock and mountain climbing, a skill that was very helpful to him on this cold winter's day;

Whereas, After more than a half hour of climbing, Kaji reached the victim, Alan Cook, 45, who had regained consciousness but did not understand what was going on;

Whereas, It took more than an hour to assemble the system of ropes and pulleys that would be used to safely lower Alan Cook from the tower;

Whereas, After more than two hours on the frozen tower, Alan Cook reached the bucket of the Honey Creek Fire Department's ladder truck and the waiting paramedics;

Whereas, Alan Cook had apparently suffered a brain aneurysm; and

Whereas, Throughout our history firefighters have displayed a level of courage and bravery that far exceeds that of ordinary men; these three men are shining examples of how much we owe our brave firefighters: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the members of the Indiana General Assembly wish to acknowledge the bravery of these three men and to thank them on behalf of the grateful citizens of the State of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Hidekatsu Kajitani, Deputy Chief Darrick Scott, and Battalion Chief Paul Watson.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Skinner.

House Resolution 14

Representative Dodge introduced House Resolution 14:

A HOUSE RESOLUTION to congratulate and honor Taryn Knox as a recipient of a 2005 Prudential Spirit of Community Award for being one of the top youth volunteers in the State of Indiana.

Whereas, Taryn Knox, an esteemed resident of Hamilton, Indiana and a senior at Hamilton High School, has achieved national recognition for exemplary volunteer service by receiving a 2005 Prudential Spirit of Community Award;

Whereas, This prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities;

Whereas, Taryn Knox earned this award by giving generously of her time and energy to create a school program that promotes philanthropic service among children in grades 5 through 7;

Whereas, While serving as a board member of a local service organization, Ms. Knox created and implemented an activity-based curriculum for young children based on stories and student-created "sharing and caring" activities; and

Whereas, The success of the State of Indiana, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Ms. Knox who use their considerable talents and resources to serve others: Therefore,

Be it resolved by the House of Representatives pf the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives does congratulate and honor Taryn Knox as a recipient of a Prudential Spirit of Community Award, recognizes her outstanding record of volunteer service, peer leadership, and community spirit, and extends best wishes for her continued success and happiness.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Taryn Knox.

The resolution was read a first time and adopted by voice vote.

Senate Concurrent Resolution 26

The Speaker handed down Senate Concurrent Resolution 26, sponsored by Representative Messer:

A CONCURRENT RESOLUTION to memorialize and honor former Indiana State Senator Thomas J. Wheeler.

Whereas, A long time resident of Indiana, Thomas J. Wheeler graduated from Waldron High School in 1940 and attended both Indiana Business College and Oklahoma Baptist University;

Whereas, Mr. Wheeler's life of service began as a first lieutenant in the U.S. Army-Air Force during World War II, where he served in the China India Burma Theatre. He received the Air Medal and the Flying Cross awards for his service;

Whereas, From 1977 to 1980, Mr. Wheeler continued to serve the public as an Indiana State Senator to Senate District 42;

Whereas, In addition, Mr. Wheeler co-founded Wheeler Corp., Cave Stone Co., Shelby Gravel Corp. and Rushville Ready Mix. He received the Lifetime Achievement Award from the Indiana Concrete Masonry Association in recognition of his dedication to his profession; and

Whereas, Mr. Wheeler was a loving husband to his wife, Alice Douglas Wheeler, whom he married on March 19, 1944. Together they raised six children: Jim Wheeler, Mike Wheeler, Tom Wheeler, David Wheeler, Ed Wheeler and Terri Nigh, and enjoyed spending time with their thirteen grandchildren and seven great-grandchildren: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. The Indiana General Assembly honors the lifetime service and achievements of former Indiana State Senator Thomas J. Wheeler.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Mr. Wheeler's wife, Alice Wheeler; to his children: Jim Wheeler, Mike Wheeler, Tom Wheeler, David Wheeler, Ed Wheeler and Terri Nigh; and to his sisters Mary Evelyn Thopy and Jenny Snapp.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

HOUSE BILLS ON SECOND READING

House Bill 1002

Representative Bosma called down House Bill 1002 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1002–4)

Mr. Speaker: I move that House Bill 1002 be amended to read as follows:

Page 18, line 3, delete "by the state." and insert "**under rules adopted by the Indiana department of administration.**".

Page 20, line 36, delete "file" and insert "**File**".

Page 20, line 41, delete "; or" and insert "**.**".

Page 20, line 42, delete "inform" and insert "**Inform**".

Page 25, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 16. IC 4-13-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The department shall, subject to this chapter, do the following:

(1) Execute and administer all appropriations as provided by law, and execute and administer all provisions of law that impose duties and functions upon the executive department of government, including executive investigation of state agencies supported by appropriations and the assembly of all required

data and information for the use of the executive department and the legislative department.
(2) Supervise and regulate the making of contracts by state agencies.
(3) Perform the property management functions required by IC 4-20.5-6.
(4) Assign office space and storage space for state agencies in the manner provided by IC 4-20.5-5.
(5) Maintain and operate the following for state agencies:
(A) Central duplicating.
(B) Printing.
(C) Machine tabulating.
(D) Mailing services.
(E) Centrally available supplemental personnel and other essential supporting services.
(F) Information services.
(G) Telecommunication services.
The department may require state agencies to use these general services in the interests of economy and efficiency. The general services rotary fund, the telephone rotary fund, and the data processing rotary fund are established through which these services may be rendered to state agencies. The budget agency shall determine the amount for each rotary fund.
(6) Control and supervise the acquisition, operation, maintenance, and replacement of state owned vehicles by all state agencies. The department may establish and operate, in the interest of economy and efficiency, a motor vehicle pool, and may finance the pool by a rotary fund. The budget agency shall determine the amount to be deposited in the rotary fund.
(7) Promulgate and enforce rules relative to the travel of officers and employees of all state agencies when engaged in the performance of state business. These rules may allow reimbursement for travel expenses by any of the following methods:
(A) Per diem.
(B) For expenses necessarily and actually incurred.
(C) Any combination of the methods in clauses (A) and (B).
The rules must require the approval of the travel by the commissioner and the head of the officer's or employee's department prior to payment.
(8) Administer IC 4-13.6.
(9) Prescribe the amount and form of certified checks, deposits, or bonds to be submitted in connection with bids and contracts when not otherwise provided for by law.
(10) Rent out, with the approval of the governor, any state property, real or personal:
(A) not needed for public use; or
(B) for the purpose of providing services to the state or employees of the state;
the rental of which is not otherwise provided for or prohibited by law. Property may not be rented out under this subdivision for a term exceeding ten (10) years at a time. However, if property is rented out for a term of more than four (4) years, the commissioner must make a written determination stating the reasons that it is in the best interests of the state to rent property for the longer term. This subdivision does not include the power to grant or issue permits or leases to explore for or take coal, sand, gravel, stone, gas, oil, or other minerals or substances from or under the bed of any of the navigable waters of the state or other lands owned by the state.
(11) Have charge of all central storerooms, supply rooms, and warehouses established and operated by the state and serving more than one (1) agency.
(12) Enter into contracts and issue orders for printing as provided by IC 4-13-4.1.
(13) Sell or dispose of surplus property under IC 5-22-22, or if advantageous, to exchange or trade in the surplus property toward the purchase of other supplies, materials, or equipment, and to make proper adjustments in the accounts and inventory pertaining to the state agencies concerned.
(14) With respect to power, heating, and lighting plants owned, operated, or maintained by any state agency:
(A) inspect;
(B) regulate their operation; and
(C) recommend improvements to those plants to promote economical and efficient operation.
(15) Administer, determine salaries, and determine other personnel matters of the department of correction ombudsman bureau established by IC 4-13-1.2-3.
(16) In consultation with the inspector general and the state ethics commission, adopt rules under IC 4-22-2 requiring a person who lobbies the executive branch to register as an executive branch lobbyist.".
(Reference is to HB 1002 as printed February 16, 2005.)

BOSMA

Motion prevailed.

HOUSE MOTION
(Amendment 1002–1)

Mr. Speaker: I move that House Bill 1002 be amended to read as follows:
Page 19, delete lines 41 through 42.
Page 20, delete lines 1 through 8.
Page 20, line 36, delete "file" and insert "**File**".
Page 20, line 41, delete "; or" and insert "**.**".
Page 20, line 42, delete "inform" and insert "**Inform**".
Page 21, delete lines 11 through 36.
Page 21, line 37, delete "(a)".
Page 22, line 8, delete "Upon request of the prosecuting attorney,".
Page 22, delete lines 9 through 42.
Delete page 23.
Page 24, delete lines 1 through 33.
Page 25, delete lines 27 through 38.
Page 34, delete lines 3 through 42.
Delete pages 35 through 39.
Page 40, delete lines 1 through 26.
Renumber all SECTIONS consecutively.
(Reference is to HB 1002 as printed February 16, 2005.)

WELCH

Representative T. Brown moved that the previous question be called. Representative Pierce requested a division of the House on the motion to call the previous question.

The Chair ordered a division of the House and appointed Representatives Stilwell and Friend to count the yeas and nays. Yeas 49, nays 46. The previous question was called.

The question then was on the motion of Representative Welch. Upon request of Representatives Welch and Pierce, the Chair ordered the roll of the House to be called. Roll Call 185: yeas 47, nays 50. Motion failed.

HOUSE MOTION

Mr. Speaker: I move for the division of the question on House Bill 1002 pursuant to House Rule 81.

The question on the passage of House Bill 1002 should be divided because it contains propositions in substance so distinct that if one were taken away, a substantive proposition shall remain for the decision of the House.

The question should be divided as follows:

Question 1 on the passage of following sections of House Bill 1002 concerning state ethics:
Section 1 (Page 1, line 1 to page 4, line 9);
Sections 5-11 (Page 8, line 12 to page 16, line 9);
Sections 16-19 (Page 25, line 39 to page 29, line 14);
Section 21 (Page 12, line12 to page 32, line 10);
Sections 24-25 (Page 32, line 25 to page 33, line 39); and
Sections 37-42 (Page 41, line 19 to page 44, line 8).

Question 2 on the passage of the following sections of House Bill 1002 concerning the inspector general:
Section 2 (Page 4, line 10 to page 8, line 11);
Sections 12-15 (Page 16, line 10 to page 25, line 38);
Section 20 (Page 29, line 15 to page 30, line 11);
Sections 22-23 (Page 32, line 11 to page 32, line 24); and
Sections 26-36 (page 33, line 39 to page 41, line 18).

PELATH

The Chair ruled that there is no provision in House Rule 81 for a division of the question on a bill only on a motion and there was no pending motion.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that House Bill 1002 cannot be subject to a division of the question pursuant to House Rule 81.

PELATH
PIERCE

The Speaker Pro Tempore, Representative Turner, yielded the gavel to the Deputy Speaker Pro Tempore, Representative T. Brown.

The question was, Shall the ruling of the Chair be sustained? Roll Call 186: yeas 49, nays 46. The ruling of the Chair was sustained.

The Deputy Speaker Pro Tempore yielded the gavel to the Speaker Pro Tempore.

There being no further amendments, the bill was ordered engrossed.

With consent of the members, the following bills were called down by their respective authors, were read a second time by title, and, there being no amendments, were ordered engrossed: House Bills 1005, 1030, 1038, 1186, 1336, 1410, 1419, 1454, 1566, 1601, 1668, 1699, and 1724.

With consent of the members, the House returned to reports from committees.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1037, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 7.

Page 8, delete lines 1 through 30, begin a new paragraph and insert:

"SECTION 1. IC 25-26-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A pharmacist shall exercise ~~his~~ **the pharmacist's** professional judgment in the best interest of the patient's health when engaging in the practice of pharmacy.

(b) A pharmacist has a duty to honor all prescriptions from a practitioner or from a physician, podiatrist, dentist, or veterinarian licensed under the laws of another state. Before honoring a prescription, the pharmacist shall take reasonable steps to determine whether the prescription has been issued in compliance with the laws of the state where it originated. The pharmacist is immune from criminal prosecution or civil liability if ~~he~~, **the pharmacist,** in good faith, refuses to honor a prescription because, in ~~his~~ **the pharmacist's** professional judgment, the honoring of the prescription would:

(1) be contrary to law;

(2) be against the best interest of the patient;

(3) aid or abet an addiction or habit; ~~or~~

(4) be contrary to the health and safety of the patient; **or**

(5) endanger the safety of a person employed by the pharmacy or a pharmacist intern or pharmacist extern.

If a pharmacist refuses to honor a prescription under subdivision (2) or (4), the pharmacist shall notify the physician who issued the prescription not more than twenty-four (24) hours after the prescription is presented to the pharmacy.

(c) A pharmacist:

(1) may refuse to honor a prescription; and

(2) is immune from criminal prosecution and civil liability for refusing to honor the prescription;

if the pharmacist believes in good faith that the person presenting the prescription or the person for whose benefit the prescription is presented is a person who has been convicted of intimidation (as described in IC 35-45-2-1(b)(1)(B)(vi)).".

Page 8, line 33, delete "may:" and insert "**may, after a hearing:**".

Page 8, delete lines 40 through 42.

Page 9, delete lines 1 through 22.

Page 10, line 31, delete "IC 35-42-5-1 and".

Page 10, line 32, delete "both".

Page 10, line 32, delete "apply" and insert "**applies**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1037 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

ULMER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1055, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 27, delete "." and insert "**if the defendant has the financial ability to pay the fee.**".

Page 3, line 30, delete "." and insert "**if the defendant has the financial ability to pay the fee.**".

Page 4, line 13, delete "." and insert "**if the defendant has the financial ability to pay the fees.**".

Page 4, line 23, delete "." and insert "**if the defendant has the financial ability to pay the fees.**".

(Reference is to HB 1055 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 4.

ULMER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1134, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, after "which" insert "**for school years beginning after June 30, 2006,**".

Page 1, after line 14, begin a new line block indented and insert:

"**(3) Provide for a pilot test for reliability and validation to be given during the first two (2) weeks that end in May 2006, and for the following schedule concerning the administration, scoring, and reporting of results, for school years beginning after June 30, 2006:**

(A) Test administration conducted during the first two (2) weeks that end in May.

(B) Test scoring completed before June 16.

(C) Test results reported to teachers and parents before July 1.

(D) Yearly progress reported to parents and the federal government before July 16.

SECTION 2. IC 20-10.1-16-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.1. (a) Before August 2, 2005, the department shall develop a ten (10) year plan for student diagnostic and summative achievement assessment that must include a system that:**

(1) has as its purposes to:

(A) provide teachers with diagnostic assessment tools during the school year to determine whether each student is learning below, at, or above the academic standards for that grade and subject so that the teacher may direct instruction accordingly;

(B) annually assess the progress of each student under the academic standards toward the knowledge and skills necessary for success in postsecondary education, workplace education, and lifelong learning; and

(C) confirm before graduation that each student has the knowledge and skills necessary for success in

postsecondary education, workplace education, and lifelong learning.

(2) uses:

(A) a diagnostic assessment tool for language arts (including English), mathematics, science, and social studies in kindergarten through at least grade 8 to support on-line, intra-year diagnostic assessments of individual or collective students by teachers to assist efforts to accelerate learning by students performing below expectations and support further learning by students performing at or above expectations;

(B) annual on-line end of the school year assessments for grades 3 through 8 that assess whether students are proficient in the subject matter of the grades in language arts (including English), mathematics, science, and social studies, as determined by the academic standards applicable to the subjects and grades;

(C) on-line end of course assessments in grades 9 through 12 that assess whether students are proficient in the subject matter of the courses in language arts (including English), mathematics, science, and social studies, as determined by the academic standards applicable to the subjects and courses;

(D) a new graduate examination, effective at least for the students expected to graduate at the end of the school year beginning July 1, 2010, and ending June 30, 2011, that confirms that the student has demonstrated the knowledge and skills necessary for success in postsecondary education, workplace education, and lifelong learning; and

(E) a separate written essay examination for each grade that must be reported as a separate part of the assessment results and that must be used independently by teachers and schools to determine whether the student is writing at a level commensurate with the needs and expectations of learning and communicating at that grade level;

(3) uses on-line testing to provide ease of use and timely return of results;

(4) supports an annual cycle of learning, assessment, and feedback that:

(A) provides on-line question banks and means for diagnostic assessments for teachers to use during the school year to assess whether students are performing below, at, or above expectations for each subject and grade;

(B) administers annual student assessments and graduate examinations during the first two (2) weeks that end in May each year;

(C) reports results to teachers, parents, communities, and the federal government before July 16 each year; and

(D) provides for a common method and means by which teachers shall grade the independent written essay.

(b) Before October 1, 2005, the department, the office of management and budget, and the attorney general shall develop specifications and a process for a long term contract with an assessment provider to implement the plan developed under this section. The department shall consult with postsecondary education and workplace employers in the state to ensure that the specifications comply with subsection (a)(1)(C). The specifications must comply with this section. The initial specifications must provide for pilot assessments to be given in the period beginning May 1, 2006, and ending May 15, 2006, and annual assessments to be given in the period beginning May 1, 2007, and ending May 15, 2007. The process must solicit interest from national and international assessment companies, put out a request for proposals, and solicit proposals for a plan to transition to the assessment system provided for in this section and manage the system, subject to the specifications, until the school year beginning July 1, 2016, and ending June 30, 2017, notwithstanding any other law that limits the maximum term of state contracts. Proposals received shall be reviewed jointly by the department and the office of management and budget, which shall jointly determine the successful bidder, subject to the approval of the attorney general for form and legality of the bid process. The bid process must be completed before January 1, 2006.

(c) If a successful bidder is selected, the pilot test contemplated by section 4(c)(3) of this chapter for the period beginning May 1, 2006, and ending May 15, 2006, shall be replaced by the pilot test contemplated by this section.

SECTION 3. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 20-10.1-16-9.1; IC 20-10.1-16-10; IC 20-10.1-16-12.

SECTION 4. **An emergency is declared for this act.**".

(Reference is to HB 1134 as printed February 2, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 19, nays 5.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1138, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 6, begin a new paragraph and insert:

"SECTION 1. IC 4-33-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission consists of seven (7) members appointed by the governor.

(b) Each member of the commission must:

(1) be a resident of Indiana; and

(2) have a reasonable knowledge of the practice, procedures, and principles of gambling operations.

(c) At least one (1) member of the commission must be experienced in law enforcement and criminal investigation.

(d) At least one (1) member of the commission must be a certified public accountant experienced in accounting and auditing.

(e) At least one (1) member of the commission must be an attorney admitted to the practice of law in Indiana.

(f) ~~Three (3) members~~ **One (1) member** of the commission must be ~~residents~~ **a resident** of a county described in IC 4-33-1-1(1).

(g) ~~Three (3) members~~ **One (1) member** of the commission must be ~~residents~~ **a resident** of a county described in IC 4-33-1-1(2).

~~(h) One (1) member of the commission must be a resident of a county not described in IC 4-33-1-1(1) or IC 4-33-1-1(2).~~

~~(i)~~ **(h)** Not more than four (4) members may be affiliated with the same political party.

~~(j) The governor shall appoint each of the initial members of the commission not later than September 1, 1993.~~".

Page 2, delete lines 20 through 25, begin a new paragraph and insert:

"SECTION 4. IC 4-33-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A riverboat that operates in a county described in IC 4-33-1-1(1) or IC 4-33-1-1(2) must:

(1) have **either:**

(A) a valid certificate of inspection from the United States Coast Guard for the carrying of at least five hundred (500) passengers; **or**

(B) an alternative certification required by the commission that requires either:

(i) structural and life safety standards that are equivalent to the standards necessary to obtain a valid certificate of inspection from the United States Coast Guard for the carrying of at least five hundred (500) passengers; or

(ii) in the case of a riverboat holding a valid certificate of inspection from the United States Coast Guard on January 1, 2005, the structural and life safety standards equal to the standards necessary to obtain a valid certificate of inspection at the time the riverboat received its original certificate of inspection; and

(2) be at least one hundred fifty (150) feet in length.

(b) This subsection applies only to a riverboat that operates on the Ohio River. A riverboat must replicate, as nearly as possible, historic Indiana steamboat passenger vessels of the nineteenth century. However, steam propulsion or overnight lodging facilities are not required under this subsection.

(c) If an alternative certification is required under subsection (a), the commission has the sole authority to determine the structural, life safety standards, and other related standards required for issuing the certification required under subsection (a)(1)(B).

SECTION 5. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "committee" refers to the interim study committee on gaming established by this SECTION.**

(b) There is established the interim study committee on gaming. The committee shall study the following:

(1) The employment of maritime employees on the riverboats.

(2) The appropriate agency to establish safety standards that would take effect after the United States Coast Guard ceases inspecting permanently moored riverboats on January 1, 2006.

(3) Whether the Indiana gaming commission should continue to contract with the state police department or develop its own law enforcement division to fulfill the commission's duties under IC 4-33-4-3(a)(7).

(4) Any personnel, management, or pension issues relating to the development of a law enforcement division within the Indiana gaming commission.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(e) The state police department, the Indiana gaming commission, and the board of trustees of the public employees' retirement fund shall provide the commission with any information or assistance necessary to carry out the purposes of this SECTION.

(f) This SECTION expires November 1, 2005.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1138 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

ALDERMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1235, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, delete "forty-five" and insert "**thirty-five**".

Page 1, line 5, delete "($45,000)," and insert "**($35,000),**".

(Reference is to HB 1235 as printed February 15, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 19, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1261, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, delete lines 24 through 28.

Page 4, line 29, delete "(13)" and insert "**(12)**".

Page 4, line 32, delete "(14)" and insert "**(13)**".

Page 4, line 35, delete "(15)" and insert "**(14)**".

Page 4, after line 39, begin a new paragraph and insert:

"SECTION 2. IC 36-9-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) A majority of the members appointed to the board constitutes a quorum for a meeting.

(b) Except as provided in ~~subsection~~ **subsections** (c) **and (d),** the board may act officially by an affirmative vote of a majority of those present at the meeting at which the action is taken.

(c) If the authority includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), then:

(1) an affirmative vote of a majority of the board is necessary for an action to be taken; and

(2) a vacancy in membership does not impair the right of a quorum to exercise all rights and perform all duties of the board.

(d) This section applies to an authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). A member described in section 5(c)(12), 5(c)(13), or 5(c)(14) of this chapter may not vote on the distribution or payment of money by the authority, unless a county with a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000) pays to the authority the county's share of the authority's budget under this chapter and as agreed by the counties participating in the authority.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1261 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

HINKLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1279, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and the environment.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 45. Brownfield Tax Reduction or Waiver

Sec. 1. As used in this chapter:

(1) "board" refers to the county property tax assessment board of appeals;

(2) "brownfield" has the meaning set forth in IC 13-11-2-19.3;

(3) "contaminant" has the meaning set forth in IC 13-11-2-42;

(4) "delinquent tax liability" means:

(A) delinquent property taxes;

(B) delinquent special assessments;

(C) interest;

(D) penalties; and

(E) costs;

assessed against a brownfield and entered on the tax duplicate that a person seeks to have waived or reduced by filing a petition under section 2 of this chapter;

(5) "department" refers to the department of local government finance, unless the specific reference is to the department of environmental management; and

(6) "fiscal body" refers to the fiscal body of:

(A) the city if the brownfield is located in a city;

(B) the town if the brownfield is located in a town; or

(C) the county if the brownfield is not located in a city or town.

Sec. 2. A person that owns or desires to own a brownfield may file a petition with the county auditor seeking a reduction or waiver of the delinquent tax liability. The petition must:

(1) be on a form:
(A) prescribed by the state board of accounts; and
(B) approved by the department;
(2) state:
(A) the amount of the delinquent tax liability; and
(B) when the delinquent tax liability arose;
(3) describe:
(A) the manner in which; and
(B) when;
the petitioner acquired or proposes to acquire the brownfield;
(4) describe the conditions existing on the brownfield that have prevented the sale or the transfer of title to the county;
(5) describe the plan of the petitioner for:
(A) addressing any contaminants on the brownfield; and
(B) the intended use of the brownfield;
(6) include a statement from the department of environmental management that the property is a brownfield;
(7) state whether the petitioner:
(A) has had an ownership interest in an entity that contributed; or
(B) has contributed;
to the contaminant or contaminants on the brownfield;
(8) state whether any part of the delinquent tax liability can reasonably be collected from a person other than the petitioner;
(9) state that the petitioner seeks:
(A) a waiver of the delinquent tax liability; or
(B) a reduction of the delinquent tax liability in a specified amount; and
(10) be accompanied by a fee in an amount established by the county auditor for:
(A) completing a title search; and
(B) processing the petition.

Sec. 3. On receipt of a petition under section 2 of this chapter, the county auditor shall determine whether the petition is complete. If the petition is not complete, the county auditor shall return the petition to the petitioner and describe the defects in the petition. The petitioner may correct the defects and file the completed petition with the county auditor. On receipt of a complete petition, the county auditor shall forward a copy of the complete petition to:
(1) the assessor of the township in which the brownfield is located;
(2) the owner, if different from the petitioner;
(3) all persons that have, as of the date of the filing of the petition, a substantial property interest of public record in the brownfield;
(4) the board;
(5) the fiscal body;
(6) the department of environmental management; and
(7) the department.

Sec. 4. On receipt of a complete petition as provided under sections 2 and 3 of this chapter, the board shall at its earliest opportunity conduct a public hearing on the petition. The board shall give notice of the date, time, and place fixed for the hearing:
(1) by mail to:
(A) the petitioner;
(B) the owner, if different from the petitioner;
(C) all persons that have, as of the date the petition was filed, a substantial interest of public record in the brownfield; and
(D) the assessor of the township in which the brownfield is located; and
(2) under IC 5-3-1.

Sec. 5. (a) The board may recommend that the department grant the petition or that the department approve a reduction of the delinquent tax liability in an amount less than the amount sought by the petitioner if the board determines that:
(1) the brownfield was acquired or is proposed to be acquired as a result of:
(A) sale or abandonment in a bankruptcy proceeding;
(B) foreclosure or a sheriff's sale;
(C) receivership; or
(D) purchase from a political subdivision;
(2) the plan referred to in section 2(5) of this chapter is in the best interest of the community;
(3) the waiver or reduction of the delinquent tax liability:
(A) is in the public interest; and
(B) will facilitate development or use of the brownfield;
(4) the petitioner:
(A) has not had an ownership interest in an entity that contributed; and
(B) has not contributed;
to the contaminant or contaminants on the brownfield;
(5) the department of environmental management has determined that the property is a brownfield;
(6) if the petitioner is the owner of the brownfield, the delinquent tax liability sought to be waived or reduced arose before the petitioner's acquisition of the brownfield; and
(7) no part of the delinquent tax liability can reasonably be collected from a person other than the owner of the brownfield.

(b) After the hearing and completion of any additional investigation of the brownfield or of the petitioner that the board considers necessary, the board shall:
(1) give notice, by mail, to the parties listed in section 4(1) of this chapter of the board's recommendation that:
(A) the fiscal body deny the petition; or
(B) the department:
(i) deny the petition;
(ii) waive the delinquent tax liability; or
(iii) reduce the delinquent tax liability by a specified amount; and
(2) forward to the department and the fiscal body a copy of:
(A) the board's recommendation; and
(B) the documents submitted to or collected by the board at the public hearing or during the course of the board's investigation of the brownfield or of the petitioner.

Sec. 6. (a) The fiscal body shall at a regularly scheduled meeting:
(1) review the petition and all other materials submitted by the board under section 5 of this chapter; and
(2) determine whether to:
(A) deny the petition;
(B) recommend that the department waive the delinquent tax liability; or
(C) recommend that the department reduce the delinquent tax liability by a specified amount.
The fiscal body may recommend a reduction of the delinquent tax liability in an amount that differs from the amount of reduction recommended by the board.

(b) The fiscal body shall:
(1) publish notice under IC 5-3-1 of its consideration of the petition under this section; and
(2) forward to the department written notice of its action under this section.

Sec. 7. (a) On receipt by the department of a recommendation by the fiscal body to waive or reduce the delinquent tax liability, the department shall:
(1) review:
(A) the petition and all other materials submitted by the board; and
(B) the notice received from the fiscal body; and
(2) subject to subsection (b), determine whether to:
(A) deny the petition;
(B) waive the delinquent tax liability; or
(C) reduce the delinquent tax liability by a specified amount.
The department may reduce the delinquent tax liability in an amount that differs from the amount of reduction recommended by the board or the fiscal body.

(b) The department's determination to waive or reduce the delinquent tax liability under subsection (a) is subject to the limitation in section 8(f)(2) of this chapter.

Sec. 8. (a) The department shall give notice of its determination

under section 7 of this chapter and the right to seek an appeal of the determination by mail to:

(1) the petitioner;

(2) the owner, if different from the petitioner;

(3) all persons that have, as of the date the petition was filed under section 2 of this chapter, a substantial property interest of public record in the brownfield;

(4) the assessor of the township in which the brownfield is located;

(5) the board;

(6) the fiscal body; and

(7) the county auditor.

(b) A person aggrieved by a determination of the department under section 7 of this chapter may obtain an additional review by the department and a public hearing by filing a petition for review with the county auditor of the county in which the brownfield is located not more than thirty (30) days after the department gives notice of the determination under subsection (a). The county auditor shall transmit the petition to the department not more than ten (10) days after the petition is filed.

(c) On receipt by the department of a petition for review, the department shall set a date, time, and place for a hearing. At least ten (10) days before the date fixed for the hearing, the department shall give notice by mail of the date, time, and place fixed for the hearing to:

(1) the person that filed the appeal;

(2) the petitioner;

(3) the owner, if different from the petitioner;

(4) all persons that have, as of the date the petition is filed, a substantial interest of public record in the brownfield;

(5) the assessor of the township in which the brownfield is located;

(6) the board;

(7) the fiscal body; and

(8) the county auditor.

(d) After the hearing, the department shall give the parties listed in subsection (c) notice by mail of the final determination of the department. The department's final determination under this subsection is subject to the limitation in subsection (f)(2).

(e) The petitioner under section 2 of this chapter shall provide to the county auditor reasonable proof of ownership of the brownfield:

(1) if a petition is not filed under subsection (b), at least thirty (30) days but not more than one hundred twenty (120) days after notice is given under subsection (a); or

(2) after notice is given under subsection (d) but not more than ninety (90) days after notice is given under subsection (d).

(f) The county auditor:

(1) shall reduce or remove the delinquent tax liability on the tax duplicate in the amount stated in:

(A) if a petition is not filed under subsection (b), the determination of the department under section 7 of this chapter; or

(B) the final determination of the department under this section;

not more than thirty (30) days after receipt of the proof of ownership required in subsection (e); and

(2) may not reduce or remove any delinquent tax liability on the tax duplicate if the petitioner under section 2 of this chapter fails to provide proof of ownership as required in subsection (e).

Sec. 9. As provided in IC 6-1.5-5-1, a petitioner under section 2 of this chapter may initiate an appeal of the department's final determination under section 8 of this chapter by filing a petition with the county assessor not more than forty-five (45) days after the department gives the petitioner notice of the final determination.

SECTION 2. IC 6-1.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The Indiana board shall conduct impartial review of all appeals of final determinations of the department of local government finance made under the following:

(1) IC 6-1.1-8.

(2) IC 6-1.1-14-11.

(3) IC 6-1.1-16.

(4) IC 6-1.1-26-2.

(5) IC 6-1.1-45-6.

(b) Each notice of final determination issued by the department of local government finance under a statute listed in subsection (a) must give the taxpayer notice of:

(1) the opportunity for review under this section; and

(2) the procedures the taxpayer must follow in order to obtain review under this section.

(c) Except as provided in subsection (e), in order to obtain a review by the Indiana board under this section, the taxpayer must file a petition for review with the appropriate county assessor not later than forty-five (45) days after the notice of the department of local government finance's action is given to the taxpayer.

(d) The county assessor shall transmit a petition for review under subsection (c) to the Indiana board not later than ten (10) days after the petition is filed.

(e) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-8-30, the public utility company must follow the procedures in IC 6-1.1-8-30.

SECTION 3. IC 6-3.1-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability ~~incurred under:~~

~~(1) IC 6-2.5 (the state gross retail and use tax);~~

~~(2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);~~

~~(3) IC 6-5.5 (the financial institutions tax); and~~

~~(4) IC 27-1-18-2 (the insurance premiums tax);~~

for a listed tax (as defined in IC 6-8.1-1-1), as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

SECTION 4. IC 6-3.1-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 5. (a) A taxpayer is entitled to a credit equal to the amount determined under section 6 of this chapter against the taxpayer's state tax liability for a taxable year if the following requirements are satisfied:

(1) The taxpayer does the following:

(A) Makes a qualified investment in that taxable year.

~~(B) Makes a good faith attempt to recover the costs of the environmental damages from the liable parties.~~

~~(C)~~ **(B)** Submits ~~a plan to the legislative body that:~~ **the following to the Indiana development finance authority:**

(i) ~~describes~~ **A description of** the taxpayer's proposed redevelopment of the property.

(ii) ~~indicates~~ The sources and amounts of money to be used for the remediation and proposed redevelopment of the property. ~~and~~

(iii) ~~estimates~~ **An estimate of** the value of the remediation and proposed redevelopment.

(iv) A description documenting any good faith attempts to recover the costs of the environmental damages from liable parties.

(v) Proof of appropriate zoning for the intended reuse.

(vi) A letter supporting the proposed project and redevelopment from the legislative body.

(vii) The documentation described in subsection (b).

~~(D) Certifies to the legislative body that the taxpayer:~~

~~(i) has never had an ownership interest in an entity that contributed; and~~

~~(ii) has not contributed;~~

~~to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana development finance authority.~~

~~(2) The legislative body, after holding a public hearing of which notice was given under IC 5-3-1, adopts a resolution:~~

~~(A) determining that:~~

~~(i) the estimate of the value of the remediation and proposed redevelopment included in the plan under~~

~~subdivision (1)(C)(iii) is reasonable for projects of that nature; and~~

~~(ii) the plan submitted under subdivision (1)(C) is in the best interest of the community;~~

~~(B) determining that the taxpayer:~~

~~(i) has never had an ownership interest in an entity that contributed; and~~

~~(ii) has not contributed;~~

~~to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana development finance authority; and~~

~~(C) approving the credit.~~

~~(3)~~ **(2)** The department determines under section 15 of this chapter that the taxpayer's return claiming the credit is filed with the department before the maximum amount of credits allowed under this chapter is met.

~~(b) In determining whether the redevelopment is in the best interest of the community, the legislative body must consider, among other things, whether the proposed development promotes:~~

~~(1) the development of housing;~~

~~(2) the development of green space;~~

~~(3) the development of high technology businesses; or~~

~~(4) the creation or retention of high paying jobs.~~

(b) The documentation referred to in subsection (a)(1)(B)(vii) consists of information that the taxpayer:

(1) has never had an ownership interest in an entity that caused or contributed to; and

(2) has not caused or contributed to;

the release or threatened release of a hazardous substance, a contaminant, petroleum, or a petroleum product that is the subject of the remediation.

(c) The Indiana development finance authority shall:

(1) determine whether the taxpayer meets the requirements of subsection (a)(1); and

(2) if the taxpayer meets the requirements of subsection (a)(1), certify to the taxpayer that the taxpayer is eligible for the credit allowed under this chapter.

SECTION 5. IC 6-3.1-23-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 6. The amount of the credit allowed under this chapter **with respect to each brownfield site** is equal to the lesser of:

(1) ~~one~~ **two** hundred thousand dollars ~~($100,000);~~ **($200,000);** or

(2) **the sum of:**

(A) ~~ten~~ **one hundred** percent ~~(10%)~~ **(100%)** multiplied by the **first one hundred thousand dollars ($100,000) of** qualified investment made by the taxpayer during the taxable year; **plus**

(B) fifty percent (50%) multiplied by the amount of the qualified investment made by the taxpayer during the taxable year that exceeds one hundred thousand dollars ($100,000).

SECTION 6. IC 6-3.1-23-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 12. (a) To be entitled to a credit under this chapter, a taxpayer must request the department of environmental management and the Indiana development finance authority to determine if costs incurred in a voluntary remediation involving a brownfield are qualified investments.

(b) The request under subsection (a) must be made before the costs are incurred.

(c) Upon receipt of a request under subsection (a), the department of environmental management and the Indiana development finance authority shall:

(1) examine the costs; ~~under the standards adopted by the department of environmental management;~~ and

(2) certify any costs that the department and the authority determine to be a qualified investment.

(d) Upon completion of a voluntary remediation for which costs have been certified as a qualified investment under subsection (c), the taxpayer:

(1) shall notify the department of environmental management; and

(2) shall request from the department of environmental management:

(A) with respect to voluntary remediation conducted under IC 13-25-5, the certificate of completion issued by the commissioner under IC 13-25-5-16 for the voluntary remediation work plan under which the costs certified under subsection (c)(2) were incurred; or

(B) with respect to voluntary remediation not conducted under IC 13-25-5, a certification of the costs incurred for the voluntary remediation that are consistent with the costs certified under subsection (c)(2).

SECTION 7. IC 6-3.1-23-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 13. (a) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department of state revenue.

(b) The taxpayer shall submit the following to the department of state revenue:

(1) The certification of the qualified investment by the department of environmental management and the Indiana development finance authority under section 12(c) of this chapter.

(2) Either:

(A) an official copy of the certification referred to in section 12(d)(2)(A) of this chapter; or

(B) the certification issued by the department of environmental management in response to a request under section 12(d)(2)(B) of this chapter.

(3) Proof of payment of the certified qualified investment.

~~(4) A copy of the legislative body's resolution adopted under section 5(a)(2) of this chapter.~~

(4) The certification received by the taxpayer under section 5(c) of this chapter.

(5) Information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 8. IC 6-3.1-23-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 15. (a) The amount of tax credits allowed under this chapter may not exceed ~~one~~ **two** million dollars ~~($1,000,000)~~ **($2,000,000)** in a state fiscal year unless the Indiana development finance authority determines under subsection (e) that money is available for additional tax credits in a particular state fiscal year. However, if the maximum amount of tax credits allowed under this subsection exceeds the amount available in the subaccount of the environmental remediation revolving loan fund (IC 13-19-5), the maximum amount of tax credits allowed under this subsection is reduced to the amount available.

(b) The department shall record the time of filing of each return claiming a credit under section 13 of this chapter and shall, except as provided in subsection (c), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the chronological order in which the return is filed in the state fiscal year.

(c) If the total credits approved under this section equal the maximum amount allowable in a state fiscal year, a return claiming the credit filed later in that same fiscal year may not be approved. However, if an applicant for whom a credit has been approved fails to file the information required by section 13 of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to the next eligible applicant or applicants until the total amount has been allowed. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

(d) The department of state revenue shall report the total credits granted under this chapter for each state fiscal year to the Indiana development finance authority. The Indiana development finance authority shall transfer to the state general fund an amount equal to the total credits granted from the subaccount of the environmental remediation revolving loan fund (IC 13-19-5).

(e) At the end of each state fiscal year, the Indiana development finance authority may determine whether money is available in the ~~subaccount of the~~ environmental remediation revolving loan fund (IC 13-19-5) to provide tax credits in excess of the amount set forth

in subsection (a) in the subsequent state fiscal year.

(f) Before ~~December 31~~ **June 30** of each year, the Indiana development finance authority may assess the demand for tax credits under this chapter and determine whether the need for other brownfield activities is greater than the need for tax credits. If the Indiana development finance authority determines that the need for other brownfield activities is greater than the need for tax credits, the authority may set aside up to three-fourths (3/4) of the amount of allowable tax credits for the subsequent state fiscal year and use it for other brownfield projects.

(g) Except as provided in subsection (h), the Indiana development finance authority may use money set aside under subsection (f) for any permissible purpose.

(h) Money specifically appropriated for tax credits may not be set aside for another use.

SECTION 9. IC 6-3.1-23-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 16. A tax credit may not be allowed under this chapter for a taxable year that begins after December 31, ~~2005.~~ **2007.** However, this section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, ~~2006,~~ **2008,** under section 11 of this chapter.

SECTION 10. IC 13-11-2-150 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 150. (a) "Owner", for purposes of IC 13-23 (except as provided in ~~subsection~~ **subsections** (b) **and (c))** means:

(1) for an underground storage tank that:

(A) was:

~~(A)~~ **(i)** in use on November 8, 1984; or

~~(B)~~ **(ii)** brought into use after November 8, 1984;

for the storage, use, or dispensing of regulated substances, a person who owns the underground storage tank; or

~~(2) for an underground storage tank that~~ **(B)** is:

~~(A)~~ **(i)** in use before November 8, 1984; but

~~(B)~~ **(ii)** no longer in use on November 8, 1984;

a person who owned the tank immediately before the discontinuation of the tank's use; **or**

(2) a person who conveyed ownership or control of the underground storage tank to a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(F) receivership;

(G) other circumstances in which a political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

(H) any other means to conduct remedial actions on a brownfield;

if the person was a person described in subdivision (1) immediately before the person conveyed ownership or control of the underground storage tank.

(b) "Owner", for purposes of IC 13-23-13, does not include a person who:

(1) does not participate in the management of an underground storage tank;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of regulated substances; and

(3) holds indicia of ownership primarily to protect the owner's security interest in the tank.

(c) "Owner", for purposes of IC 13-23, does not include a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that acquired ownership or control of an underground storage tank because of:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

(7) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign;

(8) transfer from another political subdivision or unit of federal or state government; or

(9) any other means to conduct remedial actions on a brownfield;

unless the political subdivision or unit of federal or state government causes or contributes to the release or threatened release of a substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-23 in the same manner and to the same extent as a nongovernmental entity under IC 13-23.

SECTION 11. IC 13-11-2-151 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 151. (a) "Owner or operator", for purposes of IC 13-24-1, means the following:

(1) For a petroleum facility, a person who owns or operates the facility.

(2) For a **petroleum** facility where title or control has been conveyed because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, **including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;**

(D) abandonment; ~~or~~

(E) **the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;**

(F) receivership;

(G) other circumstances in which a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government involuntarily acquired title or control because of the political subdivision's or unit's function as sovereign; or

(H) ~~a similar~~ any other means **to conduct remedial actions on a brownfield;**

to a **political subdivision or** unit of **federal or** state ~~or local~~ government, a person who owned, operated, or otherwise controlled the **petroleum** facility immediately before title or control was conveyed.

(b) Subject to subsection (c), the term does not include a **political subdivision or** unit of federal **or** state ~~or local~~ government that acquired ownership or control ~~involuntarily~~ **of the facility** through:

(1) bankruptcy;

(2) foreclosure;

~~(2)~~ **(3)** tax delinquency, **including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;**

~~(3)~~ **(4)** abandonment; ~~or~~

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

~~(4)~~ **(7)** other circumstances in which the **political subdivision or unit of federal or state** government ~~unit~~ involuntarily acquired title because of the **political subdivision's or** unit's function as sovereign;

(8) transfer from another political subdivision or unit of federal or state government; or

(9) any other means to conduct remedial actions on a brownfield.

(c) The term includes a **political subdivision or** unit of federal **or** state ~~or local~~ government that causes or contributes to the release or

threatened release of a substance, **in which case** the **political subdivision or** unit of federal **or** state ~~or local~~ government is subject to IC 13-24-1:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under IC 13-24-1.

(d) The term does not include a person who:

(1) does not participate in the management of a petroleum facility;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of petroleum; and

(3) holds evidence of ownership in a petroleum facility, primarily to protect the owner's security interest in the petroleum facility.

SECTION 12. IC 13-23-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The sources of money for the fund are as follows:

(1) Grants made by the United States Environmental Protection Agency to the state under cooperative agreements under Section 9003(h)(7) of the federal Solid Waste Disposal Act (42 U.S.C. 6991b(h)(7)).

(2) Costs recovered by the state under IC 13-23-13-8 in connection with any corrective action undertaken under IC 13-23-13-2 with respect to a release of petroleum.

(3) Costs recovered by the state in connection with the enforcement of this article with respect to any release of petroleum.

(4) Appropriations made by the general assembly, gifts, and donations intended for deposit in the fund.

(5) Penalties imposed under IC 13-23-14 and fifty percent (50%) of penalties imposed under IC 13-23-12 against owners and operators of underground petroleum storage tanks.

~~(6) Revenue from the underground petroleum storage tank registration fee deposited in the fund under IC 13-23-12-4.~~

SECTION 13. IC 13-23-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The department of state revenue shall collect fees paid under this chapter and deposit the fees as follows:

(1) ~~Fees~~ **The ninety dollar ($90) fee** paid in connection with underground petroleum storage tanks shall be deposited ~~as follows:~~

~~(A) Forty-five dollars ($45) shall be deposited~~ in the excess liability trust fund.

~~(B) Forty-five dollars ($45) shall be deposited in the petroleum trust fund.~~

(2) Fees paid in connection with underground storage tanks used to contain regulated substances other than petroleum shall be deposited as follows:

(A) Forty-five dollars ($45) shall be deposited in the hazardous substances response trust fund.

(B) Two hundred dollars ($200) shall be deposited in the excess liability trust fund.

SECTION 14. IC 13-25-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) Except as provided in subsection (b), (c), or (d), a person that is liable under Section 107(a) of CERCLA (42 U.S.C. 9607(a)) for:

(1) the costs of removal or remedial action incurred by the commissioner consistent with the national contingency plan;

(2) the costs of any health assessment or health effects study carried out by or on behalf of the commissioner under Section 104(i) of CERCLA (42 U.S.C. 9604(i)); or

(3) damages for:

(A) injury to;

(B) destruction of; or

(C) loss of;

natural resources of Indiana;

is liable, in the same manner and to the same extent, to the state under this section.

(b) The exceptions provided by Section 107(b) of CERCLA (42 U.S.C. 9607(b)) to liability otherwise imposed by Section 107(a) of CERCLA (42 U.S.C. 9607(a)) are equally applicable to any liability otherwise imposed under subsection (a).

(c) Notwithstanding any liability imposed by the environmental management laws, a lender, a secured or unsecured creditor, or a fiduciary is not liable under the environmental management laws, in connection with the release or threatened release of a hazardous substance from a facility unless the lender, the fiduciary, or creditor has participated in the management of the hazardous substance at the facility.

(d) Notwithstanding any liability imposed by the environmental management laws, the liability of a fiduciary for a release or threatened release of a hazardous substance from a facility that is held by the fiduciary in its fiduciary capacity may be satisfied only from the assets held by the fiduciary in the same estate or trust as the facility that gives rise to the liability.

(e) **Except as provided in subsection (g),** a political subdivision (as defined in IC 36-1-2-13) **or unit of federal or state government** is not liable to the state under this section for costs or damages associated with the presence of a hazardous substance on, in, or at a property in which the political subdivision **or unit of federal or state government** acquired an interest in the property **because of:**

(1) ~~under IC 6-1.1-24 or IC 6-1.1-25,~~ bankruptcy; ~~abandonment, or other circumstances in which the political subdivision involuntarily acquired an interest in the property; or~~

~~(2) to conduct remedial actions on a brownfield,~~

~~after the hazardous substance was disposed of or placed on, in, or at the property.~~

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

(7) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired an interest in the property because of the political subdivision's or unit's function as sovereign;

(8) transfer from another political subdivision or unit of federal or state government; or

(9) any other means to conduct remedial actions on a brownfield.

(f) If a transfer of an interest in property as described in subsection (e) occurs, a person who owned, operated, or otherwise controlled the property immediately before the political subdivision or unit of federal or state government acquired the interest in the property remains liable under this section:

(1) in the same manner; and

(2) to the same extent;

as the person was liable immediately before the person's interest in the property was acquired by the political subdivision or unit of federal or state government.

(g) Notwithstanding subsection (e), a political subdivision or unit of federal or state government that causes or contributes to the release or threatened release of a hazardous substance on, in, or at a property remains subject to this section:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under this section.

SECTION 15. IC 34-13-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

(1) The natural condition of unimproved property.

(2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.

(3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.

(4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.

(5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

(A) a set of rules governing the use of the extreme sport area;

(B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and

(C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

(6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73) if the claimed loss occurs at least twenty (20) years after the public highway was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-8.1-5.1-7(b).

(21) An error resulting from or caused by a failure to recognize the year 1999, 2000, or a subsequent year, including an incorrect date or incorrect mechanical or electronic interpretation of a date, that is produced, calculated, or generated by:

(A) a computer;

(B) an information system; or

(C) equipment using microchips;

that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to gross negligence, willful or wanton misconduct, or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.

(22) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(23) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

SECTION 16. [EFFECTIVE UPON PASSAGE] **(a) IC 6-3.1-23-4, IC 6-1.1-23-5, IC 6-3.1-23-6, IC 6-1.1-23-12, IC 6-1.1-23-13, IC 6-3.1-23-15, and IC 6-1.1-23-16, all as amended by this act, apply to reportable periods beginning after December 31, 2004.**

(b) The department of state revenue shall implement this act to allow the application of the statutes referred to in subsection (a), all as amended by this act, to reportable periods beginning after December 31, 2004.

SECTION 17. **An emergency is declared for this act.**

(Reference is to HB 1279 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

WOLKINS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1299, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-9-25-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]: Sec. 1. **(a)** This chapter applies to a county having a population of more than forty-seven thousand (47,000) but less than fifty thousand (50,000).

(b) The county described in subsection (a) is unique because:

(1) governmental entities and nonprofit organizations in the county have successfully undertaken cooperative efforts to promote tourism and economic development; and

(2) several unique tourist attractions are located in the county, including:

(A) the Indiana basketball hall of fame;

(B) the Wilbur Wright birthplace memorial; and

(C) a historic gymnasium.

(c) The presence of these unique attractions in the county has:

(1) increased the number of visitors to the county;

(2) generated increased sales at restaurants and other retail establishments selling food in the county; and

(3) placed increased demands on all local governments for services needed to support tourism and economic development in the county.

(d) The use of food and beverage tax revenues arising in part from the presence of the attractions identified in subsection (b)(2) to support tourism and economic development in the county permits governmental units in the county to diversify the revenue sources for which local government improvements and services are funded.

SECTION 2. IC 6-9-25-9.5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]: Sec. 9.5. (a) This section applies to revenues from the county food and beverage tax received by the county after June 30, 1994.

(b) Money in the fund established under section 8 of this chapter shall be used by the county for the financing, construction, renovation, improvement, equipping, operation, or maintenance of the following capital ~~expenditures.~~ **improvements:**

(1) Sanitary sewers or wastewater treatment facilities that serve economic development purposes.

(2) Drainage or flood control facilities that serve economic development purposes.

(3) Road improvements used on an access road for an industrial park that serve economic development purposes.

(4) A covered horse show arena.

(5) A historic birthplace memorial.

(6) A historic gymnasium and community center in a town in the county with a population greater than two thousand (2,000) but less than two thousand four hundred (2,400).

(7) Main street renovation and picnic and park areas in a town in the county with a population greater than two thousand (2,000) but less than two thousand four hundred (2,400).

(8) A community park and cultural center.

(9) Projects for which the county decides after July 1, 1994, to:

(A) expend money in the fund established under section 8 of this chapter; or

(B) issue bonds or other obligations or enter into leases under section 11.5 of this chapter;

after the projects described in subdivisions (1) through (8) have been funded.

(10) An ambulance.

Money in the fund may not be used for the operating costs of any of the permissible projects listed in this section. In addition, the county may not ~~initiate a project~~ **issue bonds or enter into leases or other obligations** under this chapter after December 31, ~~2004.~~ **2015.**

(c) The county capital improvements committee is established to make recommendations to the county fiscal body concerning the use of money in the fund established under section 8 of this chapter. The capital improvements committee consists of the following members:

(1) One (1) resident of the county representing each of the three (3) commissioner districts, appointed by the county executive. Not more than two (2) of the members appointed under this subdivision may be from the same political party.

(2) Two (2) residents of the county, appointed by the county fiscal body. The two (2) appointees may not be from the same political party. One (1) appointee under this subdivision must be a resident of a town in the county with a population greater than two thousand (2,000) but less than two thousand four hundred (2,400). One (1) appointee under this subdivision must be a resident of a town in the county with a population greater than two thousand four hundred (2,400).

(3) Two (2) residents of the largest city in the county, appointed by the municipal executive. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in economic development.

(4) Two (2) residents of the largest city in the county, appointed by the municipal fiscal body. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in tourism.

(d) Except as provided in subsection (e), the term of a member appointed to the capital improvements committee under subsection (c) is four (4) years.

(e) The initial terms of office for the members appointed to the county capital improvements committee under subsection (c) are as follows:

(1) Of the members appointed under subsection (c)(1), one (1) member shall be appointed for a term of two (2) years, one (1) member shall be appointed for three (3) years, and one (1) member shall be appointed for four (4) years.

(2) Of the members appointed under subsection (c)(2), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(3) Of the members appointed under subsection (c)(3), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(4) Of the members appointed under subsection (c)(4), one (1) member shall be appointed for three (3) years and one (1) member shall be appointed for four (4) years.

(f) At the expiration of a term under subsection (e), the member whose term expired ~~shall~~ **may** be reappointed to the county capital improvements committee to fill the vacancy caused by the expiration.

(g) The capital improvements committee is abolished on January 1, ~~2005.~~ **2016.**

SECTION 3. IC 6-9-25-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]: Sec. 10.5. (a) The county food and beverage tax council is established in the county. The membership of the county food and beverage tax council consists of the fiscal body of the county and the fiscal body of each municipality that lies either partly or entirely within the county.

(b) The county food and beverage tax council has a total of one hundred (100) votes. Every member of the county food and beverage tax council is allocated a percentage of the total one hundred (100) votes that may be cast. The percentage that a municipality in the county is allocated for a year equals the same percentage that the population of the municipality bears to the population of the county. The percentage that the county is allocated for a year equals the same percentage that the population of all areas of the county not located in a municipality bears to the population of the county. In the case of a municipality that lies partly within the county, the allocation shall be based on the population of that portion of the municipality that lies within the county.

(c) Before January 2 of each year, the county auditor shall certify to each member of the food and beverage tax council the number of votes, rounded to the nearest one-hundredth (0.01), the member has for that year.

(d) The food and beverage tax imposed under this chapter remains in effect until the county food and beverage tax council adopts an ordinance to rescind the tax.

(e) An ordinance to rescind the food and beverage tax takes effect December 31 of the year in which the ordinance is adopted.

(f) The county food and beverage tax council may not rescind the food and beverage tax if there are bonds outstanding or leases or other obligations payable under this chapter.

(g) The county food and beverage tax council is abolished on January 1, ~~2005.~~ **2016.**

SECTION 4. IC 6-9-25-11.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]: Sec. 11.5. (a) Until January 1, ~~2005,~~ **2016,** the county may:

(1) use money in the fund established under section 8 of this chapter to pay all or part of the costs associated with the facilities described in section 9.5 of this chapter;

(2) issue bonds, enter into leases, or incur other obligations to ~~(1)~~ pay any costs associated with the facilities described in section 9.5 of this chapter;

~~(2)~~ **(3)** reimburse the county or any nonprofit corporation for any money advanced to pay those costs; or

~~(3)~~ **(4)** refund bonds issued or other obligations incurred under this chapter.

(b) Bonds or other obligations issued under this section:

(1) are payable ~~solely~~ from money provided in this chapter, **any other revenues available to the county, or any combination of these sources, in accordance with a pledge made under IC 5-1-14-4;**

(2) must be issued in the manner prescribed by IC 36-2-6-18 through IC 36-2-6-20; and

(3) may, in the discretion of the county, be sold at a negotiated sale at a price to be determined by the county or in accordance with IC 5-1-11 and IC 5-3-1.

(c) Leases entered into under this section:

(1) may be for a term not to exceed fifty (50) years;

(2) may provide for payments from revenues under this chapter, any other revenues available to the county, or any combination of these sources;

(3) may provide that payments by the county to the lessor are

required only to the extent and only for the time that the lessor is able to provide the leased facilities in accordance with the lease;

(4) must be based upon the value of the facilities leased; and

(5) may not create a debt of the county for purposes of the Constitution of the State of Indiana.

(d) A lease may be entered into by the county executive only after a public hearing at which all interested parties are provided the opportunity to be heard. After the public hearing, the executive may approve the execution of the lease on behalf of the county only if the executive finds that the service to be provided throughout the life of the lease will serve the public purpose of the county and is in the best interests of its residents. A lease approved by the executive must also be approved by an ordinance of the county fiscal body.

(e) Upon execution of a lease under this section, and after approval of the lease by the county fiscal body, the county executive shall publish notice of the execution of the lease and the approval of the lease in accordance with IC 5-3-1.

(f) An action to contest the validity of bonds issued or leases entered into under this section must be brought within thirty (30) days after the adoption of a bond ordinance or notice of the execution and approval of the lease, as the case may be.".

Page 2, after line 14, begin a new paragraph and insert:

"SECTION 6. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 35. Wayne County Food and Beverage Tax

Sec. 1. This chapter applies to a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400).

Sec. 2. Except as otherwise provided in this chapter, the definitions in IC 36-1-2 apply throughout this chapter.

Sec. 3. As used in this chapter, "beverage" includes an alcoholic beverage.

Sec. 4. As used in this chapter,"bonds" has the meaning set forth in IC 5-1-11-1.

Sec. 5. As used in this chapter, "department" means the department of state revenue.

Sec. 6. As used in this chapter,"economic development project" has the meaning set forth in IC 6-3.5-7-13.1.

Sec. 7. As used in this chapter, "food" includes any food product.

Sec. 8. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5.

Sec. 9. As used in this chapter, "obligations" has the meaning set forth in IC 5-1-3-1(b).

Sec. 10. As used in this chapter, "person" has the meaning set forth in IC 6-2.5-1-3.

Sec. 11. As used in this chapter, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.

Sec. 12. (a) After January 1 but before August 1, the fiscal body of a county may adopt an ordinance to impose an excise tax known as the county's food and beverage tax on transactions described in section 13 of this chapter.

(b) Before a fiscal body may adopt an ordinance imposing a food and beverage tax, the fiscal body must hold a public hearing on the proposed ordinance, with notice of the time, date, and place of the public hearing given in accordance with IC 5-3-1.

(c) This subsection does not apply to a county governed under IC 36-2-3.5. If the fiscal body adopts an ordinance to impose a food and beverage tax under this chapter, the county executive must also adopt a substantially similar ordinance to impose the tax.

(d) This subsection applies to a county governed under IC 36-2-3.5. If the fiscal body adopts an ordinance to impose a food and beverage tax under this chapter, the county executive must approve the ordinance in the manner prescribed by IC 36-2-4-8 to impose the tax.

(e) If an ordinance is adopted under subsection (c) or approved under subsection (d), the county executive shall immediately send a certified copy of the ordinance to the department.

Sec. 13. (a) Except as provided in subsection (c), a food and beverage tax imposed under section 12 of this chapter applies to any transaction in which food or a beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in the county in which the tax is imposed; and

(3) by the retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or a beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverages sold on a "take out" or "to go" basis; or

(3) sold by a street vendor.

(c) A food and beverage tax imposed under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed under IC 6-2.5.

Sec. 14. The food and beverage tax imposed on a food or beverage transaction described in section 13 of this chapter may not exceed one percent (1%) of the gross retail income received by the retail merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 15. If the food and beverage tax imposed in a county is imposed at a rate lower than the rate permitted under section 14 of this chapter, the county fiscal body may adopt an ordinance to increase the county's food and beverage tax rate. The ordinance must be adopted after January 1 but before September 1 of a year. The fiscal body shall send a certified copy of the ordinance increasing the food and beverage tax rate to the department.

Sec. 16. (a) If no bonds, leases, obligations, or other evidences of indebtedness of a county that are payable from a food and beverage tax imposed under this chapter are outstanding, the county fiscal body may adopt an ordinance to:

(1) reduce the county's food and beverage tax rate; or

(2) repeal the county's food and beverage tax.

(b) An ordinance described in subsection (a) must be adopted after January 1 but before September 1 of a year. The fiscal body shall send a certified copy of the ordinance adopted under this section to the department.

Sec. 17. If a county fiscal body adopts an ordinance under this chapter, the ordinance takes effect January 1 of the year following the year in which the ordinance is adopted.

Sec. 18. A food and beverage tax imposed this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return that is filed for the payment of the tax may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax as prescribed by the department.

Sec. 19. (a) The department shall notify the county auditor of a county that imposes a food and beverage tax under this chapter of the amount of tax paid in the county.

(b) The amounts received from a food and beverage tax imposed under this chapter shall be paid monthly by the treasurer of state on warrants issued by the auditor of state to the county auditor of the county that imposed the tax.

Sec. 20. A county auditor shall establish a local food and beverage tax revenue fund into which all amounts received monthly from the treasurer of state under this chapter shall be deposited.

Sec. 21. Revenue derived from a tax imposed under this chapter may be treated by a county as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the county.

Sec. 22. A county may use revenues from a tax imposed under this chapter for one (1) or more of the following purposes:

(1) To promote and encourage conventions, visitors, and tourism within the county.

(2) To promote and encourage economic development within the county.

(3) Paying debt service or lease rentals on:
(A) bonds;
(B) leases;
(C) obligations; or
(D) any other evidence of indebtedness of the county;
for a project described in subdivisions (1) and (2).

Sec. 23. The department of local government finance may not reduce a county's property tax levy by the amount of revenue received from a tax imposed under this chapter.

Sec. 24. (a) The county food and beverage tax revenue committee is established to make recommendations to the county fiscal body concerning the use of money in the fund established under section 20 of this chapter. The committee consists of the following members:

(1) One (1) resident of the county representing each of the three (3) commissioner districts, appointed by the county executive. Not more than two (2) of the members appointed under this subdivision may be from the same political party.

(2) Two (2) residents of the county, appointed by the county fiscal body. The two (2) appointees may not be from the same political party.

(3) Two (2) residents of the largest city in the county, appointed by the city executive. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in economic development.

(4) Two (2) residents of the largest city in the county, appointed by the city fiscal body. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in tourism.

(b) Except as provided in subsection (c), the term of a member appointed to the county food and beverage tax revenue committee under this section is four (4) years.

(c) The initial terms of office for the members appointed to the county food and beverage tax revenue committee under subsection (a) are as follows:

(1) Of the members appointed under subsection (a)(1), one (1) member shall be appointed for a term of two (2) years, one (1) member shall be appointed for three (3) years, and one (1) member shall be appointed for four (4) years.

(2) Of the members appointed under subsection (a)(2), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(3) Of the members appointed under subsection (a)(3), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(4) Of the members appointed under subsection (a)(4), one (1) member shall be appointed for three (3) years and one (1) member shall be appointed for four (4) years.

(d) At the expiration of a term under subsection (c), the member whose term expired shall be reappointed to the county food and beverage tax revenue committee to fill the vacancy caused by the expiration.

(e) The county food and beverage tax revenue committee is abolished on the date that an ordinance to rescind the tax imposed under this chapter takes effect.

Sec. 25. The general assembly covenants with the county and the purchasers and owners of bonds, leases, obligations, or any other evidences of indebtedness of the county payable from a tax imposed under this chapter that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of a tax imposed under this chapter so long as the principal, interest, or lease rentals due under those bonds, leases, obligations, or other evidences of indebtedness of the county that are payable from a tax imposed under this chapter remain unpaid.

SECTION 7. IC 6-9-36 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 36. Monroe County Food and Beverage Tax

Sec. 1. This chapter applies to Monroe County.

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 3. (a) The fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on those transactions described in section 4 of this chapter.

(b) If the fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If the fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance is adopted.

(d) If the fiscal body adopts an ordinance under subsection (a), it may adopt an ordinance to allow every retail merchant to deduct and retain from the amount of those taxes otherwise required to be remitted under this chapter, if timely remitted, a retail merchant's collection allowance. The fiscal body shall state the amount of the allowance in the ordinance. An allowance authorized under this subsection is in addition to any allowance authorized under an ordinance adopted under section 6 or 7 of this chapter.

(e) The fiscal body may not adopt an ordinance under subsection (a) before January 1, 2006.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;
(2) in the county in which the tax is imposed; and
(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;
(2) food sold in a heated state or heated by a retail merchant;
(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The county food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 6. If an ordinance is not adopted under section 7 of this chapter, the tax that may be imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax under this chapter may be made separately or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. (a) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected pursuant to IC 6-2.5.

(b) If an ordinance is adopted under this section, all of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration apply to the imposition and administration of the tax imposed under section 3 of this chapter, except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. Specifically and not in limitation of this subsection, the terms "person" and "gross income" shall have the same meaning in this section as set forth in IC 6-2.5, except that "person" shall not include state supported educational institutions. If the tax is paid to the department of state revenue, the returns to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may by rule determine.

Sec. 8. If an ordinance is not adopted under section 9 of this chapter, the amounts received from the county food and beverage tax imposed under this chapter shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

Sec. 9. (a) If an ordinance is adopted under section 3 of this chapter, the county treasurer shall establish a food and beverage tax receipts fund.

(b) The county treasurer shall deposit in the fund county food and beverage tax revenue that the county treasurer receives.

(c) Any money earned from the investment of money in the fund becomes part of the fund.

(d) Money in the fund at the end of the county fiscal year does not revert to the county general fund.

Sec. 10. (a) If an ordinance is adopted under section 3 of this chapter, the fiscal officer of the city of Bloomington shall establish a food and beverage tax receipts fund.

(b) The fiscal officer shall deposit in the fund county food and beverage tax revenue that the fiscal officer receives.

(c) Any money earned from the investment of money in the fund becomes part of the fund.

(d) Money in the fund at the end of the city fiscal year does not revert to the city general fund.

Sec. 11. (a) Each month, the auditor of Monroe County shall distribute the county food and beverage tax revenue received by the county treasurer between the city of Bloomington and Monroe County in the same ratio that the population of the city of Bloomington bears to the population of Monroe County.

(b) Distribution of county food and beverage tax revenue to the city of Bloomington must be on warrants issued by the auditor of Monroe County.

Sec. 12. Monroe County's share of county food and beverage tax revenue deposited in the county food and beverage tax receipts fund may be used to only finance, construct, operate, and maintain one (1) or more of the following:

(1) A convention center, conference center, or auditorium facility.

(2) Public safety facilities or operations.

(3) Parks and recreation facilities.

(4) Tourism or economic development projects.

(5) Parking facilities.

Sec. 13. Money deposited in the city food and beverage tax receipts fund may be used only to finance, construct, operate, and maintain one (1) or more of the following:

(1) A convention center, conference center, or auditorium facility.

(2) Parks and recreation facilities.

(3) Tourism or economic development projects.

(4) Parking facilities.

(5) Public safety facilities or operations.

Sec. 14. (a) There is created a nine (9) member food and beverage tax authority to make recommendations to the county executive and the city executive concerning the use of money in the funds established under sections 9 and 10 of this chapter. The nine (9) members are appointed as follows:

(1) Two (2) members appointed by the executive of the largest municipality in the county. Not more than one (1) member appointed under this subdivision may be of the same political party. One (1) member appointed under this subdivision must represent the hospitality or restaurant industry.

(2) Two (2) members appointed by the city council of the largest municipality in the county. Not more than one (1) member appointed under this subdivision may be of the same political party. One (1) member appointed under this subdivision must represent the hospitality or restaurant industry.

(3) Three (3) members appointed by the county executive body. Not more than two (2) members appointed under this subdivision may be of the same political party. One (1) member appointed under this subdivision must represent the hospitality or restaurant industry.

(4) Two (2) members appointed by the county fiscal body. One (1) member appointed under this subdivision must be a resident of Ellettsville.

A member appointed under this subsection must reside in Monroe County.

(b) The term of appointment on the authority is two (2) years. However, when the initial appointments are made, each appointing authority shall appoint one (1) member for a one (1) year term and the remaining members for two (2) year terms. Subsequent appointments are for two (2) year terms. A vacancy on the authority shall be filled for the unexpired term by the authority that made the prior appointment.

(c) The affirmative vote of at least five (5) members of the authority is required for the authority to take an action.

Sec. 15. (a) If no obligations are outstanding, the county fiscal body may repeal the ordinance adopted under section 3 of this chapter imposing the tax before December 1 in any year.

(b) An ordinance to rescind the food and beverage tax takes effect January 1 of the year immediately following the year in which the ordinance is adopted.

(c) If the county fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

SECTION 8. [EFFECTIVE UPON PASSAGE] **A large percentage of the land in the city of Bloomington and in Monroe County is not taxable because it is owned by the state or the federal government, which puts the city and the county at a disadvantage in their ability to fund projects. These special circumstances require legislation particular to the city and county.**

SECTION 9. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1299 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 19, nays 4.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1304, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 19, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1342, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

ALDERMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1381, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 9, delete "IC 9-21-1-4.5." and insert "**IC 13-20-13-7.**".

Page 2, line 32, delete "may".

Page 3, delete lines 6 through 42, begin a new paragraph and insert:

"SECTION 3. IC 13-20-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) A fee of twenty-five cents ($0.25) is imposed on the sale of the following:

(1) Each new tire that is sold at retail.

(2) Each new tire mounted on a new vehicle sold at retail.

(b) The person that sells the new tire or vehicle at retail to the ultimate consumer of the tire or vehicle shall collect the fee imposed by this section.

(c) A person that collects a fee under subsection (b):

(1) shall pay the fees collected under subsection (b):

(A) to the department of state revenue; and

(B) at the same time and in the same manner that the person pays the state gross retail tax collected by the person to the department of state revenue;

(2) shall indicate on the return:

(A) prescribed by the department of state revenue; and

(B) used for the payment of state gross retail taxes;

that the person is also paying fees collected under subsection (b); and

(3) is entitled to deduct and retain one percent (1%) of the fees required to be paid to the department of state revenue under this subsection.

(d) The department of state revenue shall deposit fees collected under this section **as follows:**

(1) Eighty percent (80%) of the fees collected under this section shall be deposited in the waste tire assistance fund established by IC 4-23-5.5-17.

(2) Twenty percent (20%) of the fees collected under this section shall be deposited in the waste tire management fund established by this chapter.".

Delete pages 4 through 5.

Renumber all SECTIONS consecutively.

(Reference is to HB 1381as printed February 18, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 15, nays 4.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1390, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, delete lines 27 through 42.

Page 5, delete lines 1 through 18, begin a new paragraph and insert:

"SECTION 5. IC 25-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) State board of cosmetology examiners (IC 25-8-3-1).

(7) State board of funeral and cemetery service (IC 25-15-9).

(8) State board of registration for professional engineers (IC 25-31-1-3).

(9) Indiana plumbing commission (IC 25-28.5-1-3).

(10) Indiana real estate commission (IC 25-34.1).

(11) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).

(12) Private detectives licensing board (IC 25-30-1-5.1).

(13) State board of registration for land surveyors (IC 25-21.5-2-1).

(14) Manufactured home installer licensing board (IC 25-23.7).

(15) Home inspectors licensing board (IC 25-20.2-3-1).

(16) State board of massage therapy (IC 25-21.8-3-1).

(b) Except for appeals of denials of license renewals to the executive director authorized by section 5.5 of this chapter, nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.".

Page 8, delete lines 9 through 35, begin a new paragraph and insert:

"SECTION 7. IC 25-1-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) State board of cosmetology examiners (IC 25-8-3-1).

(7) State board of registration of land surveyors (IC 25-21.5-2-1).

(8) State board of funeral and cemetery service (IC 25-15-9).

(9) State board of registration for professional engineers (IC 25-31-1-3).

(10) Indiana plumbing commission (IC 25-28.5-1-3).

(11) Indiana real estate commission (IC 25-34.1-2-1).

(12) Real estate appraiser licensure certification board (IC 25-34.1-8).

(13) Private detectives licensing board (IC 25-30-1-5.1).

(14) Manufactured home installer licensing board (IC 25-23.7).

(15) Home inspectors licensing board (IC 25-20.2-3-1).

(16) State board of massage therapy (IC 25-21.8-3-1).".

Page 10, line 8, delete ""Bureau" means the health professions bureau" and insert "**"Licensing agency" means the Indiana professional licensing agency established under IC 25-1-6.**".

Page 10, delete line 9.

Page 10, line 10, delete "or "massage therapy":" and insert "**, "massage therapy", or "bodywork":**".

Page 10, line 14, after "pressure," insert "**percussion, kneading,**".

Page 10, line 14, after "positioning," insert "**nonspecific stretching, stretching within the normal anatomical range of movement,**".

Page 10, line 17, after "water," insert "**ice, stones, thermal therapy,**".

Page 10, line 18, delete "and abrasives;" and insert "**abrasives, and topical preparations that are not classified as prescription drugs;**".

Page 10, line 19, after "include" insert "**:**

(A)".

Page 10, line 19, delete "adjustment." and insert "**adjustment; and**".

Page 10, between lines 19 and 20, begin a new line double block indented and insert:

"**(B) diagnosis or prescribing drugs for which a license is required.**".

Page 10, line 24, delete "or "practice of massage therapy"" and insert "**, "practice of massage therapy", or "practice of bodywork""**".

Page 12, line 4, delete "Each member of the board who is not a state employee" and insert "**A member of the board is not entitled to a per diem allowance or any other compensation for the performance of the member's duties.**".

Page 12, delete lines 5 through 10.

Page 12, line 34, delete "bureau" and insert "**licensing agency**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1390 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 3.

ALDERMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1422, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 6, delete ":".

Page 1, line 7, delete "(1)".

Page 1, run in lines 6 through 7.

Page 1, line 8, delete "; and" and insert "**.**".

Page 1, delete line 9.

Page 1, line 17, delete "one billion" and insert "**five hundred million**".

Page 2, line 1, delete "($1,000,000,000)" and insert "**($500,000,000)**".

(Reference is to HB 1422 as printed February 15, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 16, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1522, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, delete "enforcement officers" and insert "**agents**".

Page 2, line 13, delete "enforcement officers" and insert "**gaming agents**".

Page 3, line 20, delete "(a)".

Page 3, line 22, "enforcement officers and auditors" and insert "**gaming agents**".

Page 3, line 23, delete "section 3(a)(7)".

Page 3, line 23, strike "of".

Page 3, line 26, delete "enforcement" and insert "**gaming agents;**".

Page 3, delete line 27.

Page 3, line 29, delete "enforcement officers and auditors described in subdivision" and insert "**gaming agents;**".

Page 3, line 30, delete "(3);".

Page 3, line 32, delete "enforcement officers and auditors" and insert "**gaming agents**".

Page 3, delete lines 34 through 42.

Page 4, delete lines 1 through 3.

Page 4, line 5, delete "Before January".

Page 4, line 6, delete "1, 2007, the" and insert "The".

Page 4, line 6, strike "shall" and insert "**may**".

Page 4, line 14, delete "After December 31, 2006, the" and insert "**The**".

Page 4, line 15, delete "enforcement officers" and insert "**gaming agents**".

Page 4, line 21, delete "Enforcement Officers" and insert "**Gaming Agents**".

Page 4, delete lines 22 through 35.

Page 4, line 36, delete "2." and insert "**1.**".

Page 4, line 36, delete "An enforcement officer" and insert "**A gaming agent**".

Page 4, line 37, delete "title." and insert "**article.**".

Page 4, line 38, delete "An enforcement officer" and insert "**A gaming agent**".

Page 5, line 3, delete "an enforcement officer" and insert "**a gaming agent**".

Page 5, line 4, delete "enforcement officer" and insert "**gaming agent**".

Page 5, line 6, delete "enforcement officer's" and insert "**gaming agent's**".

Page 5, line 7, delete "3." and insert "**2.**".

Page 5, line 7, delete "enforcement officer" and insert "**gaming agent**".

Page 5, line 11, delete "4." and insert "**3.**".

Page 5, line 11, delete "an" and insert "**a**".

Page 5, line 12, delete "enforcement officer" and insert "**gaming agent**".

Page 5, line 15, delete "officer's" and insert "**agent's**".

Page 5, line 15, delete "an enforcement officer." and insert "**a gaming agent.**".

Page 5, line 17, delete "an enforcement officer" and insert "**a gaming agent**".

Page 5, line 20, delete "5." and insert "**4.**".

Page 5, line 20, delete "enforcement officer" and insert "**gaming agent**".

Page 5, line 21, delete "an enforcement officer:" and insert "**a gaming agent:**".

Page 5, line 22, delete "officer's" and insert "**agent's**".

Page 5, line 23, delete "officer's" and insert "**agent's**".

Page 5, line 25, delete "officer" and insert "**agent**".

Page 5, line 27, delete "officer's" and insert "**agent's**".

Page 5, line 27, delete "officer" and insert "**agent**".

Page 5, line 28, delete "officer's" and insert "**agent's**".

Page 5, line 30, delete "6." and insert "**5.**".

Page 5, line 30, delete "(a)".

Page 5, line 30, delete "categorize salaries of" and insert "**create a matrix for salary ranges for gaming agents, which must be reviewed and approved by the budget agency before implementation.**".

Page 5, delete lines 31 through 42.

Page 6, delete lines 1 through 4, begin a new paragraph and insert:

"SECTION 6. IC 5-2-1-9, AS AMENDED BY P.L.62-2004, SECTION 1, AND AS AMENDED BY P.L.85-2004, SECTION 40, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. Such rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, the northwest Indiana law enforcement training center, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental

retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), ~~and~~ (l), **and (n),** a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy, *at the southwest Indiana law enforcement training academy under section 10.5 of this chapter,* or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) **This subsection does not apply to a gaming agent employed as a law enforcement officer by the Indiana gaming commission.** Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs. *Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.* In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis. The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to any of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having ~~no~~ **not** more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Firearm policies.

(7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city; and

(2) the police chief of any town having a metropolitan police department.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

(1) before January 1, 1994, is not required; or

(2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the

police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.".

Page 6, line 15, delete "enforcement," and insert "**agent,**".

Page 7, line 19, delete "enforcement," and insert "**agent,**".

Page 7, line 42, after "any" delete "Indiana" and insert "**gaming agent.**".

Page 8, delete line 1.

Page 8, line 26, delete "enforcement," and insert "**agent,**".

Page 8, line 29, delete "alcohol and".

Page 8, line 30, delete "tobacco".

Page 8, line 40, delete "enforcement," and insert "**agent,**".

Page 10, line 10, delete "enforcement," and insert "**agent,**".

Page 10, line 17, delete "enforcement officers" and insert "**agents**".

Page 11, line 8, delete "enforcement officer" and insert "**agent**".

Page 13, line 12, delete "enforcement officers" and insert "**agents**".

Page 14, delete lines 3 through 42.

Delete pages 15 through 18.

Page 19, line 13, delete "enforcement officer;" and insert "**agent;**".

Page 19, after line 21, begin a new paragraph and insert:

"SECTION 18. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1522 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

ALDERMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1530, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-24-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A driver's license or a learner's permit may not be issued to an individual less than eighteen (18) years of age who meets any of the following conditions:

(1) Is a habitual truant under IC 20-8.1-3-17.2.

(2) Is under at least a second suspension from school for the school year under IC 20-8.1-5.1-8 or IC 20-8.1-5.1-9.

(3) Is under an expulsion from school under IC 20-8.1-5.1-8, IC 20-8.1-5.1-9, or IC 20-8.1-5.1-10.

(4) Has withdrawn from school, for a reason other than financial hardship and the withdrawal was reported under IC 20-8.1-3-24(a) before graduating.

(5) Is considered a dropout under IC 20-8.1-3-17.7.

(b) At least five (5) days before holding an exit interview under ~~IC 20-8.1-3-17(b)(2),~~ **IC 20-8.1-3-17.7,** the school corporation shall give notice by certified mail or personal delivery to the student, the student's parent, or the student's guardian of the following:

(1) That the exit interview will include a hearing to determine if the reason for the student's withdrawal is financial hardship.

(2) If the principal determines that the reason for the student's withdrawal is not financial hardship:

(A) the student and the student's parent or guardian will receive a copy of the determination; and

(B) the student's name will be submitted to the bureau **by the student's school principal** for the bureau's use in denying or invalidating a driver's license or learner's permit under this section.

SECTION 2. IC 20-8.1-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Subject to the specific exceptions under this chapter, each individual shall attend either a public school which the individual is entitled to attend under IC 20-8.1-6.1 or some other school which is taught in the English language.

(b) An individual is bound by the requirements of this chapter from the earlier of the date on which the individual officially enrolls in a school or, except as provided in subsection (h), the beginning of the fall school term for the school year in which the individual becomes seven (7) years of age until ~~the date on which~~ the individual **meets one (1) of the following conditions, whichever occurs first:**

(1) Graduates.

(2) Reaches at least sixteen (16) years of age but who is less than eighteen (18) years of age and **meets** the requirements under ~~subsection (j) concerning an exit interview are met~~ **section 17.6 or 17.7 of this chapter,** enabling the individual to withdraw from school before graduation. ~~or~~

(3) Reaches at least eighteen (18) years of age.

~~whichever occurs first.~~

(c) An individual who:

(1) enrolls in school before the fall school term for the school year in which the individual becomes seven (7) years of age; and

(2) is withdrawn from school before the school year described in subdivision (1) occurs;

is not subject to the requirements of this chapter until the individual is reenrolled as required in subsection (b). Nothing in this section shall be construed to require that a child complete grade 1 before the child reaches eight (8) years of age.

(d) An individual for whom education is compulsory under this section shall attend school each year:

(1) for the number of days public schools are in session in the school corporation in which the individual is enrolled in Indiana; or

(2) if the individual is enrolled outside Indiana, for the number of days the public schools are in session where the individual is enrolled.

(e) In addition to the requirements of subsections (a) through (d), an individual must be at least five (5) years of age on July 1 of the 2001-2002 school year or any subsequent school year to officially enroll in a kindergarten program offered by a school corporation. However, subject to subsection (g), the governing body of the school corporation shall adopt a procedure affording a parent of an individual who does not meet the minimum age requirement set forth in this subsection the right to appeal to the superintendent of the school corporation for enrollment of the individual in kindergarten at an age earlier than the age that is set forth in this subsection.

(f) In addition to the requirements of subsections (a) through (e), and subject to subsection (g), if an individual enrolls in school as permitted under subsection (b) and has not attended kindergarten, the superintendent of the school corporation shall make a determination as to whether the individual shall enroll in kindergarten or grade 1 based on the particular model assessment adopted by the governing body under subsection (g).

(g) To assist the principal and governing bodies, the department shall do the following:

(1) Establish guidelines to assist each governing body in establishing a procedure for making appeals to the superintendent of the school corporation under subsection (e).

(2) Establish criteria by which a governing body may adopt a model assessment which will be utilized in making the determination under subsection (f).

(h) If the parents of an individual who would otherwise be subject to compulsory school attendance under subsection (b), upon request of the superintendent of the school corporation, certify to the superintendent of the school corporation that the parents intend to:

(1) enroll the individual in a nonaccredited, nonpublic school; or

(2) begin providing the individual with instruction equivalent to that given in the public schools as permitted under section 34 of this chapter;

not later than the date on which the individual reaches seven (7) years of age, the individual is not bound by the requirements of this chapter until the individual reaches seven (7) years of age.

(i) The governing body of each school corporation shall designate the appropriate employees of the school corporation to conduct the exit interviews for students described in subsection (b)(2). Each exit interview must be personally attended by:

(1) the student's parent or guardian;
(2) the student;
(3) each designated appropriate school employee; and
(4) the student's principal.

~~(j) A student who is at least sixteen (16) years of age but less than eighteen (18) years of age is bound by the requirements of compulsory school attendance and may not withdraw from school before graduation unless:~~

~~(1) the student, the student's parent or guardian, and the principal agree to the withdrawal; and~~

~~(2) at the exit interview the student provides written acknowledgment of the withdrawal and the student's parent or guardian and the school principal each provide written consent for the student to withdraw from school.~~

~~(k)~~ **(j)** For the purposes of this section, "school year" has the meaning set forth in IC 21-2-12-3(h).

SECTION 3. IC 20-8.1-3-17.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17.2. (a) Each governing body shall establish and include as part of the written copy of its discipline rules described in IC 20-8.1-5.1-7:

(1) a definition of a student who is designated as a habitual truant **who must be defined at a minimum as someone who is chronically absent, by missing more than ten (10) unexcused days of school in one (1) school year;**
(2) the procedures under which subsection (b) will be administered; and
(3) all other pertinent matters related to this action.

(b) Notwithstanding IC 9-24 concerning the minimum requirements for qualifying for the issuance of an operator's license or learner's permit, and subject to subsections (c) through (e), a person who is:

(1) at least thirteen (13) years of age but less than fifteen (15) years of age;
(2) a habitual truant under the definition of habitual truant established under subsection (a); and
(3) identified in a list submitted to the bureau of motor vehicles under subsection (f);

may not be issued an operator's license or a learner's permit to drive a motor vehicle or motorcycle under IC 9-24 until the person is at least eighteen (18) years of age.

(c) A person described in subsection (b) is entitled to the procedure described in IC 20-8.1-5.1-13.

(d) Each person described in subsection (b) who is at least thirteen (13) years of age and less than eighteen (18) years of age is entitled to a periodic review of that person's attendance record in school in order to determine whether the prohibition described in subsection (b) shall continue. In no event may the periodic reviews be conducted less than one (1) time each school year.

(e) Upon review, the governing body may determine that the person's attendance record has improved to the degree that the person may become eligible to be issued an operator's license or a learner's permit.

(f) Before February 1 and before October 1 of each year, the governing body of the school corporation shall submit to the bureau of motor vehicles the pertinent information concerning a person's ineligibility under subsection (b) to be issued the license or permit.

(g) The department of education shall develop guidelines concerning criteria used in defining a habitual truant that may be considered by a governing body in complying with subsection (a).

SECTION 4. IC 20-8.1-3-17.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 17.6. (a)This section applies to an individual:**

(1) who:
(A) attends or last attended a nonpublic nonaccredited school;
(B) is at least sixteen (16) years of age but less than eighteen (18) years of age; and
(C) has not completed the requirements for graduation; and
(2) who:
(A) wishes to withdraw from school before graduation;
(B) fails to return at the beginning of a semester; or
(C) stops attending school during a semester.

(b) An individual to whom this section applies may withdraw from school only if the individual's principal and parent provide written consent.

SECTION 5. IC 20-8.1-3-17.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 17.7. (a) This section applies to an individual:**

(1) who:
(A) attends or last attended a public or nonpublic accredited school;
(B) is at least sixteen (16) years of age but less than eighteen (18) years of age; and
(C) has not completed the requirements for graduation;
(2) who:
(A) wishes to withdraw from school before graduation;
(B) fails to return at the beginning of a semester; or
(C) stops attending school during a semester; and
(3) who has no record of transfer to another school.

(b) An individual to whom this section applies may withdraw from school only if all the following conditions are met:

(1) An exit interview is conducted.
(2) The individual's parent consents to the withdrawal.
(3) The school principal approves of the withdrawal.
(4) The withdrawal is because of financial hardship and the individual is employed to support the individual's family or dependents.
(5) The school principal provides to the student and the student's parent a copy of statistics compiled by the department concerning the likely consequences of life without a high school diploma.
(6) The school principal advises the student and the student's parent that a driver's license or learner's permit may be revoked and may not be issued to the student upon the student's withdrawal from school, for a reason other than financial hardship.
(7) The school principal advises the student and the student's parent that an employment certificate may be revoked and may not be issued to the student upon the student's withdrawal from school, for a reason other than financial hardship.

(c) For purposes of this section, the following must be in written form:

(1) An individual's request to withdraw from school.
(2) A parent's consent to a withdrawal.
(3) A principal's consent to a withdrawal.

(d) If the individual's principal does not consent to the individual's withdrawal under this section, the individual's parent may appeal the denial of consent to the governing body of the public or nonpublic accredited school that the individual last attended.

(e) Each public school, including each school corporation and each charter school (as defined in IC 20-5.5-1-4), and each nonpublic accredited school shall provide an annual report to the department setting forth the following information:

(1) The total number of individuals:
(A) who withdrew from school under this section; and
(B) who either:
(i) failed to return to school at the beginning of a semester; or
(ii) stopped attending school during a semester;
and for whom there is no record of transfer to another school.
(2) The number of individuals who withdrew from school for the reason set forth in subsection (b)(4).

(f) If an individual to which this section applies:

(1) has not received consent to withdraw from school under this section; and
(2) fails to return to school at the beginning of a semester or during the semester;

the principal of the school that the individual last attended shall deliver by certified mail or personal delivery to the bureau of child labor a record of the individual's failure to return to school so that the bureau of child labor revokes any employment

certificates issued to the individual and does not issue any additional employment certificates to the individual. For purposes of IC 20-8.1-4-12, the individual shall be considered a dropout.

(g) At the same time that a school principal delivers the record under subsection (f), the principal shall deliver by certified mail or personal delivery to the bureau of motor vehicles a record of the individual's failure to return to school so that the bureau of motor vehicles revokes any driver's license or learner's permit issued to the individual and does not issue any additional driver's licenses or learner's permits to the individual before the individual is at least eighteen (18) years of age. For purposes of IC 9-24-2-1, the individual shall be considered a dropout.

(h) If:

(1) a principal has delivered the record required under subsection (f) or subsection (g), or both; and

(2) the school subsequently gives consent to the individual to withdraw from school under this section,

the principal of the school shall send a notice of withdrawal to the bureau of child labor and the bureau of motor vehicles by certified mail or personal delivery. For purposes of IC 20-8.1-4-12 and IC 9-24-2-1, the individual shall no longer be considered a dropout.

SECTION 6. IC 20-8.1-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) **Except as provided in subsection (b),** upon presentation of the documents required by section 7 of this chapter, an employment certificate shall be issued immediately to the child. ~~However, an issuing officer may deny a certificate to a child:~~

~~(1) whose attendance is not in good standing; or~~

~~(2) whose academic performance does not meet the school corporation's standard.~~

(b) An employment certificate may not be issued to a student who meets any of the following conditions:

(1) Is a habitual truant under IC 20-8.1-3-17.2.

(2) Is under at least a second suspension from school for the school year under IC 20-8.1-5.1-8 or IC 20-8.1-5.1-9.

(3) Is under an expulsion from school under IC 20-8.1-5.1-8, IC 20-8.1-5.1-9, or IC 20-8.1-5.1-10.

(4) Is considered a dropout under IC 20-8.1-3-17.7.

(5) Does not meet the academic performance standards of the school corporation.

~~(b)~~ **(c)** Within five (5) days, the issuing officer shall send a copy of the employment certificate to the department of labor. The issuing officer shall keep a record in his office of each employment certificate issued.

~~(c)~~ **(d)** A student may appeal the denial of a certificate under subsection (a) to the school principal.

(e) At least five (5) days before holding an exit interview under IC 20-8.1-3-17.7, the school corporation shall give notice by certified mail or personal delivery to the student or the student's parent of the following:

(1) That the exit interview will include a hearing to determine if the reason for the student's withdrawal is financial hardship.

(2) If the principal determines that the reason for the student's withdrawal is not financial hardship:

(A) the student and the student's parent will receive a copy of the determination; and

(B) the student's name will be submitted to the bureau of child labor by the student's school principal for the bureau of child labor's use in denying or invalidating an employment certificate under this section.

SECTION 7. IC 20-8.1-4-3 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) The department of education shall develop a form for the written consent to withdraw from school for a school corporation's use in implementing IC 20-8.1-3-17.7, as added by this act.**

(b) The department of education shall compile and make available to schools statistics concerning the likely consequences of life without a high school diploma. The statistics must include, but are not limited to, statistics that show the likelihood of an individual's:

(1) unemployment or a lower paying job; and

(2) involvement in criminal activity;

as the consequence of not obtaining a high school diploma.

(c) The department of education shall update the statistics described in subsection (b) every two (2) years.

(d) This SECTION expires December 31, 2005.

SECTION 9. **An emergency is declared for this act.**

(Reference is to HB 1530 as printed January 28, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 2.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1550, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 21, nays 2.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1571, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 15, delete "Not more than five million dollars ($5,000,000) of qualified" and insert "**The amount of tax credits allowed under this chapter may not exceed one million dollars ($1,000,000) in a state fiscal year.**".

Page 4, delete line 16.

Page 4, line 17, delete "year.".

Page 4, run in lines 15 through 17.

(Reference is to HB 1571 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1582, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

BEHNING, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1610, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-1 apply throughout this SECTION and SECTION 3 of this act.**

(b) A religious institution may file an application under IC 6-1.1-11 before May 11, 2005, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2001 and 2002 if:

(1) the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2001 or 2002;

(2) the religious institution acquired the real property after December 31, 1998; and

(3) the real property was exempt from property taxes for

property taxes first due and payable in 2000.

(c) If a religious institution files an exemption application under subsection (b):

(1) the exemption application is subject to review and action by:

(A) the county property tax assessment board of appeals; and

(B) the department of local government finance; and

(2) the exemption determination made under subdivision (1) is subject to appeal;

in the same manner that would have applied if an application for exemption had been timely filed in 2000 and 2001.

(d) If an exemption application filed under subsection (b) is approved, the religious institution may file a claim under IC 6-1.1-26-1 with the county auditor for a refund for any payment of property taxes first due and payable in 2001 and for any payment of property taxes first due and payable in 2002, including any paid interest and penalties, with respect to the exempt property.

(e) Upon receiving a claim for a refund filed under subsection (d), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. Interest is not payable on the refund.

(f) If an exemption application filed under subsection (b) is approved, the county auditor shall forgive the interest and penalties charged to the religious institution for the exempt property in 2001 and 2002 to the extent of the approved exemptions.

(g) This SECTION expires January 1, 2006.

SECTION 3. [EFFECTIVE UPON PASSAGE] **(a) A religious institution may file an application under IC 6-1.1-11 before August 1, 2005, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2001, 2002, 2003, 2004, and 2005 if:**

(1) the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2001, 2002, 2003, 2004, or 2005;

(2) the religious institution acquired the real property after December 31, 1999, for charitable or religious purposes;

(3) it is determined that the real property is exempt or would have been exempt from property taxes for property taxes first due and payable after December 31, 1999; and

(4) the religious institution:

(A) has occupied the real property for the years described in subdivision (1); and

(B) has used the real property for its religious or charitable purposes in the years described in subdivision (1).

(b) If a religious institution files an exemption application under subsection (a):

(1) the exemption application is subject to review and action by:

(A) the county property tax assessment board of appeals; and

(B) the department of local government finance; and

(2) the exemption determination made under subdivision (1) is subject to appeal;

in the same manner that would have applied if an application for exemption had been timely filed in 2000, 2001, 2002, 2003, and 2004.

(c) The religious institution may file a claim under IC 6-1.1-26-1 with the county auditor for a refund for any payment of property taxes first due and payable in 2001, 2002, 2003, 2004, and 2005, including any paid interest and penalties, with respect to the exempt property if:

(1) an exemption application filed under subsection (a) is approved; and

(2) the religious institution has paid any property taxes in 2001, 2002, 2003, 2004, and 2005 attributable to the exempt property.

(d) Upon receiving a claim for a refund filed under subsection (c), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. Interest is not payable on the refund.

(e) If:

(1) the religious institution incurred property tax liabilities in any combination of 2001, 2002, 2003, 2004, or 2005 because of the failure to properly apply for a property tax exemption for the religious institution's real property described in subsection (a); and

(2) an exemption application filed under subsection (a) is approved;

the county treasurer of the county in which the real property is located shall forgive the property taxes, penalties, and interest charged to the religious institution for the exempt property in any combination of 2001, 2002, 2003, 2004, or 2005.

(f) This SECTION expires January 1, 2006.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1610 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1639, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 32 through 42.

Delete page 4.

Page 5, delete lines 1 through 32, begin a new paragraph and insert:

"SECTION 2. IC 6-3.1-26-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 5.5. As used in this section, "motion picture or audio production" means a:**

(1) feature length film;

(2) video;

(3) television series;

(4) commercial;

(5) music video or an audio recording; or

(6) corporate production;

for any combination of theatrical, television, or other media viewing or as a television pilot. The term does not include a motion picture that is obscene (as described in IC 35-49-2-1) or television coverage of news or athletic events.".

Page 6, line 14, delete "productions (as defined in IC 6-2.5-5-39);" and insert "**productions;**".

Page 6, delete lines 19 through 42.

Page 7, delete lines 1 through 39.

Page 10, delete lines 19 through 23, begin a new paragraph and insert:

"SECTION 9. [EFFECTIVE JANUARY 1, 2006] **IC 6-3.1-26-8, as amended by this act, applies to taxable years beginning after December 31, 2005.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1639 as printed February 9, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 21, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1669, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 23, begin a new paragraph and insert:

"SECTION 1. IC 5-28-15-3, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. As used in this chapter, "zone business" means an entity that accesses at least one (1) tax credit, **deduction,** or exemption incentive available under this chapter, IC 6-1.1-20.8, ~~or~~ **IC 6-1.1-45, IC 6-1.1-46,** IC 6-3-3-10, **IC 6-3.1-7, or IC 6-3.1-10.**

SECTION 2. IC 5-28-15-5, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board has the following powers, in addition to other powers that are contained in this chapter:

(1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation that this chapter provides.

(2) To waive or modify rules as provided in this chapter.

(3) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.

(4) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:

(A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars ($1,000) in any year, pay a registration fee to the board in an amount equal to one percent (1%) of all its incentives.

(B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.

(C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.

(5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.

(6) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:

(A) is in the best interests of the zone; and

(B) meets the threshold criteria and factors set forth in section 9 of this chapter.

(7) To employ staff and contract for services.

(8) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.

(9) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites and the availability of the credit provided by IC 6-1.1-20.7 to persons owning inventory located on an industrial recovery site.

(10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by those chapters in appropriate cases.

(11) To make determinations under IC 6-3.1-11.5 concerning the designation of locations as military base recovery sites and the availability of the credit provided by IC 6-3.1-11.5 to persons making qualified investments in military base recovery sites.

(12) To make determinations under IC 6-3.1-11.5 concerning the disqualification of persons from claiming the credit provided by IC 6-3.1-11.5 in appropriate cases.

(b) In addition to a registration fee paid under subsection (a)(4)(A), each zone business that receives ~~a credit under~~ **an incentive described in section 3 of** this chapter shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

SECTION 3. IC 5-28-15-6, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The enterprise zone fund is established within the state treasury.

(b) The fund consists of:

(1) the revenue from the registration fee required under section 5 of this chapter; and

(2) appropriations from the general assembly.

(c) The corporation shall administer the fund. The fund may be used to:

(1) pay the expenses of administering the fund;

(2) pay nonrecurring administrative expenses of the enterprise zone program; ~~and~~

(3) provide grants to U.E.A.s for brownfield remediation in enterprise zones; **and**

(4) pay administrative expenses of urban enterprise associations.

However, money in the fund may not be expended unless it has been appropriated by the general assembly and allotted by the budget agency.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. The corporation shall develop appropriate applications and may develop grant allocation guidelines, without complying with IC 4-22-2, for awarding grants under this subsection. The grant allocation guidelines must take into consideration the competitive impact of brownfield redevelopment plans on existing zone businesses.

SECTION 4. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 45. Enterprise Zone Investment Deduction

Sec. 1. The definitions in this chapter apply throughout this chapter.

Sec. 2. "Base year assessed value" equals the total assessed value of the real and personal property assessed at an enterprise zone location on the assessment date in the calendar year immediately preceding the calendar year in which a taxpayer makes a qualified investment with respect to the enterprise zone location.

Sec. 3. "Corporation" refers to the Indiana economic development corporation established under IC 5-28-3-1.

Sec. 4. "Enterprise zone" refers to an enterprise zone created under IC 5-28-15.

Sec. 5. "Enterprise zone location" means a lot, parcel, or tract of land located in an enterprise zone.

Sec. 6. "Enterprise zone property" refers to real and tangible personal property that is located within an enterprise zone on an assessment date.

Sec. 7. As used in this chapter, "qualified investment" means any of the following expenditures relating to an enterprise zone location on which a taxpayer's zone business is located:

(1) The purchase of a building.

(2) The purchase of new manufacturing or production equipment.

(3) The purchase of new computers and related office equipment.

(4) Costs associated with the repair, rehabilitation, or modernization of an existing building and related improvements.

(5) Onsite infrastructure improvements.

(6) The construction of a new building.

(7) Costs associated with retooling existing machinery.

Sec. 8. "Zone business" has the meaning set forth in IC 5-28-15-3.

Sec. 9. (a) A taxpayer that makes a qualified investment is

entitled to a deduction from the assessed value of the taxpayer's enterprise zone property located at the enterprise zone location for which the taxpayer made the qualified investment. The amount of the deduction is equal to the remainder of:

(1) the total amount of the assessed value of the taxpayer's enterprise zone property assessed at the enterprise zone location on a particular assessment date; minus

(2) the total amount of the base year assessed value for the enterprise zone location.

(b) To receive the deduction allowed under subsection (a) for a particular year, a taxpayer must comply with the conditions set forth in this chapter.

Sec. 10. (a) A taxpayer that desires to claim the deduction provided by section 9 of this chapter for a particular year shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the deduction is claimed was located on the assessment date. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The application must be filed before May 10 of the assessment year to obtain the deduction.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance and the corporation require to determine eligibility for the deduction provided under this chapter.

Sec. 11. (a) The county auditor shall determine the eligibility of each applicant under this chapter and shall notify the applicant of the determination before August 15 of the year in which the application is made.

(b) A person may appeal the determination of the county auditor under subsection (a) by filing a complaint in the office of the clerk of the circuit or superior court not later than forty-five (45) days after the county auditor gives the person notice of the determination.

Sec. 12. A taxpayer may not claim a deduction under this chapter for more than ten (10) years.

SECTION 5. IC 6-1.1-46 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 46. Enterprise Zone Personal Property Deduction

Sec. 1. The definitions in this chapter apply throughout this chapter.

Sec. 2. "Corporation" refers to the Indiana economic development corporation established under IC 5-28-3-1.

Sec. 3. "Enterprise zone" refers to an enterprise zone created under IC 5-28-15.

Sec. 4. "Enterprise zone personal property" refers to tangible personal property that is located within an enterprise zone on the assessment date.

Sec. 5. (a) A taxpayer that meets the conditions of subsection (b) may receive a deduction from the assessed value of the taxpayer's enterprise zone personal property. The amount of the deduction is equal to the lesser of:

(1) the assessed valuation of the taxpayer's enterprise zone personal property; or

(2) two hundred fifty thousand dollars ($250,000).

(b) A taxpayer is entitled to a deduction under this chapter for a particular year if:

(1) the taxpayer complies with the conditions set forth in this chapter; and

(2) the taxpayer's application for a deduction is approved by the fiscal body of the municipality in which the enterprise zone is located.

Sec. 6. (a) A taxpayer that desires to claim the deduction provided by section 5 of this chapter for a particular year shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the deduction is claimed was located on the assessment date. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The application must be filed before May 10 of the assessment year to obtain the deduction.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance and the corporation require to determine eligibility for the deduction provided under this chapter.

(c) The county auditor shall submit all applications received under this section to the fiscal body of the municipality in which the property for which the deduction is claimed was located on the assessment date. The fiscal body may approve or reject the application according to criteria adopted by the fiscal body.

Sec. 7. (a) The county auditor shall notify the applicant of the fiscal body's determination before August 15 of the year in which the application is made.

(b) A person may appeal the determination of the fiscal body under subsection (a) by filing a complaint in the office of the clerk of the circuit or superior court not later than forty-five (45) days after the county auditor gives the person notice of the fiscal body's determination.

SECTION 6. IC 6-3.1-7-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. The department shall annually compile and report to the Indiana economic development corporation the following information:**

(1) The number of tax credits claimed under this chapter for taxable years ending in the preceding state fiscal year.

(2) The total amount of the tax credits described in subdivision (1).

(3) For each enterprise zone, the number and amount of tax credits described in subdivision (1) that are attributable to loans made to businesses located in the enterprise zone.".

Replace the effective date in SECTION 3 with "[EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]".

Page 3, delete lines 16 through 42.

Delete pages 4 through 5.

Page 6, delete lines 1 through 19.

Page 6, line 20, delete "IC 6-3.1-7-2,"

Page 6, delete lines 21 through 22.

Page 6, line 23, delete "(b)".

Page 6, run in lines 20 through 23.

Page 6, line 24, delete "2005." and insert "**1999.**".

Page 6, line 25, delete "(c)" and insert "**(b)**".

Page 6, line 26, delete "2005." and insert "**1999.**".

Page 6, delete lines 27 through 28, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE JANUARY 1, 2006] **IC 6-1.1-45 and IC 6-1.1-46, both as added by this act, apply to assessment dates occurring after February 28, 2006, for property taxes first due and payable after December 31, 2006.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1669 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 1.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1681, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-6-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 9.5. Vanderburgh County Supplemental Auto Rental Excise Tax

Sec. 1. This chapter applies to Vanderburgh County.

Sec. 2. As used in this chapter, "department" refers to the department of state revenue.

Sec. 3. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5.

Sec. 4. As used in this chapter, "passenger motor vehicle" has the meaning set forth in IC 9-13-2-123(a).

Sec. 5. As used in this chapter, "person" has the meaning set

forth in IC 6-2.5-1-3.

Sec. 6. As used in this chapter, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.

Sec. 7. (a) The legislative body of the most populous city in the county may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2036.

(b) The county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle is two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) If the city legislative body adopts an ordinance under subsection (a), the city legislative body shall immediately send a certified copy of the ordinance to the commissioner of the department.

(d) If the city legislative body adopts an ordinance under subsection (a) before June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the city legislative body adopts an ordinance under subsection (a) on or after June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

Sec. 8. (a) The rental of a passenger motor vehicle by a funeral director licensed under IC 25-15 is exempt from the county supplemental auto rental excise tax if the rental is part of the services provided by the funeral director for a funeral.

(b) The temporary rental of a passenger motor vehicle is exempt from the county supplemental auto rental excise tax if the rental is:

(1) made or reimbursed under a contract or agreement:

(A) between a provider and person;

(B) given for consideration over and above the lease or purchase price of a motor vehicle; and

(C) that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear;

(2) made or reimbursed under a contract for mechanical breakdown insurance;

(3) made or reimbursed under a contract for automobile collision insurance or automobile comprehensive insurance that covers the temporary lease of a vehicle to the person after the person's vehicle is damaged or destroyed in a collision; or

(4) otherwise provided to a person as a replacement vehicle:

(A) while the person's vehicle is repaired or serviced due to a defect in materials or skill of work, normal wear and tear, or other damage; or

(B) until the person permanently replaces a vehicle that has been destroyed.

Sec. 9. A person that rents a passenger motor vehicle is liable for the county supplemental auto rental excise tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. The retail merchant shall collect the tax as an agent for the state.

Sec. 10. (a) Except as otherwise provided in this section, the county supplemental auto rental excise tax shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(b) Each retail merchant filing a return for the county supplemental auto rental excise tax shall indicate in the return:

(1) all locations in the county where the retail merchant collected county supplemental auto rental excise taxes; and

(2) the amount of county supplemental auto rental excise taxes collected at each location.

(c) The return to be filed for the payment of the county supplemental auto rental excise tax may be:

(1) a separate return;

(2) combined with the return filed for the payment of the auto rental excise tax under IC 6-6-9; or

(3) combined with the return filed for the payment of the state gross retail tax;

as prescribed by the department.

Sec. 11. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the fiscal officer of the most populous city in the county upon warrants issued by the auditor of state.

Sec. 12. (a) If a tax is imposed under section 7 of this chapter, the fiscal officer of the most populous city in the county shall establish a county supplemental auto rental excise tax fund.

(b) The city fiscal officer shall deposit in the county supplemental auto rental excise tax fund all amounts received under this chapter.

(c) Any money earned from the investment of money in the county supplemental auto rental excise tax fund becomes a part of the fund.

(d) Money in the county supplemental auto rental excise tax fund shall be used by the city legislative body for purposes designated by the city legislative body.

Sec. 13. This chapter expires January 1, 2036.".

Page 6, line 1, reset in roman "If an".

Page 6, reset in roman lines 2 through 4.

Page 8, after line 25, begin a new paragraph and insert:

"SECTION 7. IC 6-9-2-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. Employees of the convention and visitor bureau created under section 3 of this chapter may participate in the group health insurance, disability insurance, and life insurance programs established:**

(1) by the county government of the county described in section 1 of this chapter; and

(2) for the employees of the convention and visitor bureau.

SECTION 8. IC 6-9-2.5-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. (a) The county treasurer shall establish a tourism capital improvement fund.

(b) The county treasurer shall deposit money in the tourism capital improvement fund as follows:

(1) Before January 1, 2000, if the rate set under section 6 of this chapter is greater than two percent (2%), the county treasurer shall deposit in the tourism capital improvement fund an amount equal to the money received under section 6 of this chapter minus the amount generated by a two percent (2%) rate.

(2) After December 31, 1999, and before January 1, 2003, the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate.

(3) After December 31, 2002, and before January 1, ~~2006,~~ **2010,** the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a one and one-half percent (1.5%) rate.

(4) After December 31, ~~2005,~~ **2009,** the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a ~~three~~ **two** and one-half percent ~~(3.5%)~~ **(2.5%)** rate.

(c) The commission may transfer money in the tourism capital improvement fund to:

(1) the county government, a city government, or a separate body corporate and politic in a county described in section 1 of this chapter; or

(2) any Indiana nonprofit corporation;

for the purpose of making capital improvements in the county that promote conventions, tourism, or recreation. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 9. IC 6-9-2.5-7.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.7. (a) The county treasurer shall establish a convention center operating fund.

(b) **Before January 1, 2010,** the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate. Money in the fund must be expended for the operating expenses of a convention center.

(c) ~~This section expires January 1, 2006.~~ **After December 31, 2009, the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate. Money in the fund must be expended for the operating expenses of a convention center.**

SECTION 10. [EFFECTIVE UPON PASSAGE] **Actions taken before the effective date of this act that would have been valid under IC 6-9-2-10, as added by this act, are legalized and validated.**

SECTION 11. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1681 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 15, nays 3.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1695, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 35. Special Retail District Incremental Gross Retail Tax

Sec. 1. Except as otherwise provided in this chapter, the definitions in IC 6-2.5-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "fiscal body" has the meaning set forth in IC 36-1-2-6.

Sec. 3. As used in this chapter, "fiscal officer" has the meaning set forth in IC 36-1-2-7.

Sec. 4. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5, except that the term does not include taxes imposed under IC 6-2.5 or IC 6-9.

Sec. 5. (a) Subject to subsections (b) and (c), the fiscal body of a county containing a consolidated city may adopt an ordinance designating an area in the county as a special retail district.

(b) A special retail district designated under subsection (a) must meet the following requirements:

(1) The district may not exceed four hundred (400) acres.

(2) The district must be established for the purpose of undertaking a project, or a series of projects, that involve a total capital commitment in excess of one hundred twenty-five million dollars ($125,000,000).

(3) The fiscal body must make a finding that:

(A) the total capital investment for the project, or series of projects, will be in excess of five hundred million dollars ($500,000,000) at the completion of the project, or series of projects; and

(B) the project would not otherwise be accomplished through the ordinary operations of private investment because of the unique quality and scope of the project or series of projects.

(c) The fiscal body may adopt an ordinance under subsection (a) only after January 1 but before April 1 of a year.

(d) If the fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

Sec. 6. (a) If the fiscal body of a county containing a consolidated city adopts an ordinance designating a special retail district under section 5 of this chapter, a one percent (1%) incremental gross retail tax is imposed on the transactions described in section 7 of this chapter that occur within the district.

(b) The incremental gross retail tax imposed by subsection (a):

(1) takes effect July 1 following the adoption of the ordinance under section 5 of this chapter; and

(2) is in addition to any other tax imposed on the transactions described in section 7 of this chapter.

Sec. 7. (a) Except as provided in subsection (b), the incremental gross retail tax imposed by section 6 of this chapter applies to all retail transactions that occur within the special retail district designated under section 5 of this chapter.

(b) The incremental gross retail tax does not apply to a transaction to the extent that the transaction is exempt from the state gross retail tax under IC 6-2.5.

Sec. 8. (a) The incremental gross retail tax imposed by section 6 of this chapter is imposed only on the gross retail income derived from retail transactions.

(b) A person who receives goods or services in a retail transaction that is taxed under this chapter is liable for the incremental gross retail tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the goods or services. The retail merchant shall collect the tax as an agent for the state and the county.

(c) Except as otherwise provided in this chapter, the incremental gross retail tax shall be imposed, paid, and collected in the same manner in which the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 9. (a) The amounts received from the incremental gross retail tax shall be paid monthly by the treasurer of the state to the fiscal officer of the county containing a consolidated city upon warrants issued by the auditor of state.

(b) The amounts received by the county fiscal officer under subsection (a) shall be deposited into a special fund.

(c) Money in the special fund may be used by the metropolitan development commission for any purpose for which property taxes allocated to a redevelopment district under IC 36-7-15.1-26 may be expended, including the payment of debt service or lease rentals and the establishment and maintenance of a debt service reserve.

Sec. 10. (a) Subject to subsection (c), the fiscal body of a county containing a consolidated city may after January 1 but before April 1 of a year adopt an ordinance to rescind the designation of a special retail district.

(b) If the fiscal body adopts an ordinance under subsection (a):

(1) the special retail district is abolished July 1 following the adoption of the ordinance; and

(2) the incremental gross retail tax is rescinded effective July 1 following the adoption of the ordinance.

(c) The fiscal body may not adopt an ordinance rescinding the designation of a district if there are bonds outstanding or leases or other obligations payable from the incremental gross retail tax under this chapter.

(d) If the fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.".

Delete pages 2 through 6.

Renumber all SECTIONS consecutively.

(Reference is to HB 1695 as printed February 18, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 18, nays 4.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1696, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 21, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1701, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5, is to be filed on or before March 1 of each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing units of the county that result from appeals described in:

(i) IC 6-1.1-18.5-13(4) and IC 6-1.1-18.5-13(5) filed after December 31, 1982; plus

(ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus

(iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

(i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(G) the amount of property taxes imposed in the county for the stated assessment year under:

(i) IC 21-2-15 for a capital projects fund; plus

(ii) IC 6-1.1-19-10 for a racial balance fund; plus

(iii) IC 20-14-13 for a library capital projects fund; plus

(iv) IC 20-5-17.5-3 for an art association fund; plus

(v) IC 21-2-17 for a special education preschool fund; plus

(vi) IC 21-2-11.6 for a referendum tax levy fund; plus

(vii) an appeal filed under IC 6-1.1-19-5.1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus

(viii) an appeal filed under IC 6-1.1-19-5.4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus

(H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19, including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19-1.5 or any other law; minus

(I) for each township in the county, the lesser of:

(i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE or IC 6-1.1-18.5-19(b) STEP THREE, whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year 1989 that represents increases in that levy that resulted from an appeal described in IC 6-1.1-18.5-13(4) filed after December 31, 1982; or

(ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus

(J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus

(K) for each county, the sum of:

(i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 (repealed) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b); and

(ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) for property taxes payable in each year after 1995; **minus**

(L) the amount of property taxes imposed by a county library board under IC 20-14-7-6; plus

(2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus

(3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus

(4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the

stated assessment year; plus

(5) the difference between:

(A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR; minus

(B) the amount the civil taxing units' levies were increased because of the reduction in the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).

(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes which each county auditor is required to prepare on or before March 1 of each year under IC 6-1.1-22-3.

(j) "Eligible property tax replacement amount" is equal to the sum of the following:

(1) Sixty percent (60%) of the total county tax levy imposed by each school corporation in a county for its general fund for a stated assessment year.

(2) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on real property for a stated assessment year.

(3) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on tangible personal property, excluding business personal property, for an assessment year.

(k) "Business personal property" means tangible personal property (other than real property) that is being:

(1) held for sale in the ordinary course of a trade or business; or

(2) held, used, or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means the sum of the following:

(1) Sixty percent (60%) of a taxpayer's tax liability in a calendar year for taxes imposed by a school corporation for its general fund for a stated assessment year.

(2) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on real property.

(3) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on tangible personal property other than business personal property.

(m) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property tax levy of a school corporation in a county for the school corporation's general fund.

SECTION 2. IC 6-1.1-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) Each year the taxpayers of each county shall receive a credit for property tax replacement in the amount of each taxpayer's property tax replacement credit amount for taxes which:

(1) under IC 6-1.1-22-9 are due and payable in May and November of that year; or

(2) under IC 6-1.1-22-9.5 are due in installments established by the department of local government finance for that year.

The credit shall be applied to each installment of taxes. The dollar amount of the credit for each taxpayer shall be determined by the county auditor, based on data furnished by the department of local government finance.

(b) The tax liability of a taxpayer for the purpose of computing the credit for a particular year shall be based upon the taxpayer's tax liability as is evidenced by the tax duplicate for the taxes payable in that year, plus the amount by which the tax payable by the taxpayer had been reduced due to the application of county adjusted gross income tax revenues to the extent the county adjusted gross income tax revenues were included in the determination of the total county tax levy for that year, as provided in sections 2(g) and 3 of this chapter, adjusted, however, for any change in assessed valuation which may have been made pursuant to a post-abstract adjustment if the change is set forth on the tax statement or on a corrected tax statement stating the taxpayer's tax liability, as prepared by the county treasurer in accordance with IC 6-1.1-22-8(a). However, except when using the term under section 2(l)(1) of this chapter, the tax liability of a taxpayer does not include the amount of any property tax owed by the taxpayer that is attributable to that part of any property tax levy subtracted under section 2(g)(1)(B), 2(g)(1)(C), 2(g)(1)(D), 2(g)(1)(E), 2(g)(1)(F), 2(g)(1)(G), 2(g)(1)(H), 2(g)(1)(I), 2(g)(1)(J), ~~or~~ 2(g)(1)(K), **or 2(g)(1)(L)** of this chapter in computing the total county tax levy.

(c) The credit for taxes payable in a particular year with respect to mobile homes which are assessed under IC 6-1.1-7 is equivalent to the taxpayer's property tax replacement credit amount for the taxes payable with respect to the assessments plus the adjustments stated in this section.

(d) Each taxpayer in a taxing district that contains all or part of an economic development district that meets the requirements of section 5.5 of this chapter is entitled to an additional credit for property tax replacement. This credit is equal to the product of:

(1) the STEP TWO quotient determined under section 4(a)(3) of this chapter for the taxing district; multiplied by

(2) the taxpayer's taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.".

Page 2, after line 28, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JANUARY 1, 2006] **IC 6-1.1-21-2 and IC 6-1.1-21-5, both as amended by this act, apply to property taxes first due and payable after December 31, 2005.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1701 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 2.

HINKLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1719, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 11, delete lines 10 through 42.

Page 12, delete lines 1 through 20.

Page 12, delete lines 29 through 39.

Page 17, line 17, delete "IC 9-16-1-2.5;".

Page 17, line 17, delete "IC 9-18-2-36;".

Renumber all SECTIONS consecutively.

(Reference is to HB 1719 as printed February 16, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 2.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1728, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3-1-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal

Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

(4) Subtract one thousand dollars ($1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars ($40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars ($2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars ($2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal

Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an a total amount exceeding twenty-five thousand dollars ($25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars ($2,500).

STEP FIVE: Determine the sum of the STEP THREE amount

and two thousand five hundred dollars ($2,500).".

Page 2, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 3. IC 6-3-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 33. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income or federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, **including the special depreciation allowance for 50-percent bonus depreciation property.**

SECTION 4. IC 6-5.5-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.

(B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.

(G) Add the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(H) Add the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(I) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

(E) ~~Subtract~~ The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation.

(F) The amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income multiplied by the quotient of:

(1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by

(2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

(d) As used in subsection (c), "investment company" means a person, copartnership, association, limited liability company, or corporation, whether domestic or foreign, that:

(1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and

(2) solicits or receives a payment to be made to itself and issues in exchange for the payment:

(A) a so-called bond;

(B) a share;

(C) a coupon;

(D) a certificate of membership;

(E) an agreement;

(F) a pretended agreement; or

(G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

SECTION 5. IC 6-5.5-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 20. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, **including the special depreciation allowance for 50-percent bonus depreciation property.**".

Page 2, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 7. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: **(a) IC 6-3-1-3.5 and IC 6-5.5-1-2, both as amended by this act, apply only to taxable years beginning after December 31, 2004.**

(b) This act may not be construed to authorize a taxpayer to deduct from the taxpayer's Indiana adjusted gross income the amount of a deduction under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000) taken by the taxpayer before January 1, 2005.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1728 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 21, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1730, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 22, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1735, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 5-2-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

(1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;

(2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or

(3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

(1) pay the costs of administering the fund, including expenditures for personnel and data;

(2) establish and maintain the sex and violent offender directory under IC 5-2-12; ~~and~~

(3) provide training for persons to assist victims; **and**

(4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.".

Delete page 2.

Page 3, delete lines 1 through 4.

Page 5, line 23, delete "attorney general;" and insert "**department of correction if the department has established an automated victim notification system under IC 11-8-7;**".

Page 5, delete lines 26 through 39, begin a new paragraph and insert:

"SECTION 3. IC 11-8-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 7. Victim Notification Services

Sec. 1. As used in the chapter, "registered crime victim" refers to a crime victim who registers to receive victim notification services under section 2(a)(4) of this chapter if the department establishes an automated victim notification services under this chapter.

Sec. 2. (a) The department may establish an automated victim notification system that must do the following:

(1) Automatically notify a registered crime victim when a committed offender who committed the crime against the victim:

(A) is assigned to a:

(i) department facility; or

(ii) county jail or any other facility not operated by the department of correction;

(B) is transferred to a:

(i) department facility; or

(ii) county jail or any other facility not operated by the department of correction;

(C) is given a different security classification;

(D) is released on temporary leave;

(E) is discharged; or

(F) has escaped.

(2) Allow a registered crime victim to receive the most recent status report for an offender by calling the automated victim notification system on a toll free telephone number.

(3) Notify a registered crime victim concerning a change in the status of:

(A) a criminal appeal;

(B) a writ of habeas corpus proceeding;

(C) an appeal from the granting of a petition for postconviction relief; or

(D) a postconviction proceeding in a capital case;

concerning the committed offender who committed the crime against the registered crime victim.

(4) Allow a crime victim to register or update the victim's registration for the automated victim notification system by calling a toll free telephone number.

(b) For purposes of subsection (a), if the department establishes an automated victim notification system, a sheriff responsible for the operation of a county jail shall immediately notify the department if a committed offender:

(1) is transferred to another county jail or another facility not operated by the department of correction;

(2) is released on temporary leave;

(3) is discharged; or

(4) has escaped.

Sheriffs and other law enforcement officers and prosecuting attorneys shall cooperate with the department in establishing and maintaining an automated victim notification system.

(c) An automated victim notification system may transmit information to a person by:

(1) telephone;

(2) electronic mail; or

(3) another method as determined by the department.

Sec. 3. (a) The department must ensure that the offender information contained in an automated victim notification system is updated frequently enough to timely notify a registered crime victim that an offender has:

(1) been released;

(2) been discharged; or

(3) escaped.

(b) The failure of an automated victim notification system to provide notice to the victim does not establish a separate cause of action by the victim against:

(1) the state; or

(2) the department.

Sec. 4. If the department establishes an automated victim notification services under this chapter, the department, in cooperation with the Indiana criminal justice institute:

(1) may use money in the victim and witness assistance fund under IC 5-2-6-14(e); and

(2) shall seek:

(A) federal grants; and

(B) other funding.

Sec. 5. The department may adopt rules under IC 4-22-2 to implement this chapter.".

(Reference is to HB 1735 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

ULMER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1779, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 5-10.2-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The annuity savings account consists of:

(1) the members' contributions; and

(2) the interest credits on these contributions in the guaranteed fund or the gain or loss in market value on these contributions in the alternative investment program, as specified in section 4 of this chapter.

Each member shall be credited individually with the amount of the member's contributions and interest credits.

(b) Each board shall maintain the annuity savings account program in effect on December 31, 1995 (referred to in this chapter as the guaranteed program). In addition, the board of the Indiana state teachers' retirement fund shall establish and maintain a guaranteed program within the 1996 account. Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary of the annuity savings account, subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.

(c) Each board shall establish alternative investment programs within the annuity savings account of the public employees' retirement fund, the pre-1996 account, and the 1996 account, based on the following requirements:

(1) Each board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1) alternative investment program that is a bond fund.

(2) The programs should represent a variety of investment objectives under IC 5-10.3-5-3.

(3) No program may permit a member to withdraw money from the member's account except as provided in IC 5-10.2-3 and IC 5-10.2-4.

(4) All administrative costs of each alternative program shall be paid from the earnings on that program **or as may be determined by the rules of each board.**

(5) A valuation of each member's account must be completed as of:

(A) the last day of each quarter; **or**

(B) another time as each board may specify by rule.

(d) The board must prepare, at least annually, an analysis of the guaranteed program and each alternative investment program. This analysis must:

(1) include a description of the procedure for selecting an alternative investment program;

(2) be understandable by the majority of members; and

(3) include a description of prior investment performance.

(e) A member may direct the allocation of the amount credited to the member among the guaranteed fund and any available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection under rules established by each board. A board shall allow a member to make a selection or change any existing selection at least once each quarter.

(2) The board shall implement the member's selection beginning the first day of the next calendar quarter that begins at least thirty (30) days after the selection is received by the board **or an alternate date established by the rules of each board.** This date is the effective date of the member's selection.

(3) A member may select any combination of the guaranteed fund or any available alternative investment funds, in ten percent (10%) increments **or smaller increments that may be established by the rules of each board.**

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:

(A) for an alternative investment program balance, the market value on the effective date; and

(B) for any guaranteed program balance, the account balance on the effective date.

All contributions to the member's account shall be allocated as of the last day of that quarter **or at an alternate time established by the rules of each board** in accordance with the member's most recent effective direction. The board shall not reallocate the member's account at any other time.

(f) When a member who participates in an alternative investment program transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection **or at an alternate time established by the rules of each board.** When a member who participates in an alternative investment program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus contributions received after that date **or at an alternate time established by the rules of each board.**

(g) When a member who participates in the guaranteed program transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the effective date of the transfer. **However, each board may by rule provide for an alternate valuation date.** When a member who participates in the guaranteed program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus any contributions received since that date plus interest since that date. **However, each board may by rule provide for an alternate valuation date.**".

Delete pages 2 through 3.

Page 4, delete line 1.

Page 4, line 30, after "month," insert "**or an alternate date established by the rules of each board,**".

Page 5, line 8, reset in roman "last".

Page 5, line 8, reset in roman "of the quarter preceding".

Page 5, line 8, delete "before".

Page 5, line 9, after "date." insert "**However, each board may by rule provide for an alternate valuation date.**".

Page 5, delete lines 13 through 18.

(Reference is to HB 1779 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

TORR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1780, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, line 11, delete "hunting,".

Page 5, line 19, delete "department" and insert "office of the commissioner".

Page 5, delete lines 27 through 29.

Page 5, line 30, delete "(13)" and insert "**(12)**".

Page 5, line 30, delete "any" and insert "**a**".

Page 5, line 32, delete "animal." and insert "**animal, as adopted by the board.**".

Page 5, line 33, delete "(14)" and insert "**(13)**".

Page 5, line 35, delete "(15)" and insert "**(14)**".

Page 5, line 37, delete "(16)" and insert "**(15)**".

Page 5, line 40, delete "(17)" and insert "**(16)**".

Page 6, line 1, delete "(18)" and insert "**(17)**".

Page 6, line 6, delete "commissioner" and insert "**board**".

Page 6, line 26, delete "public." and insert "**public, subject to IC 15-2.1-24.**".

Page 6, line 28, delete "hunt,".

Page 7, line 5, delete "commissioner" and insert "**board**".

Page 7, line 17, delete "department" and insert "**board**".

Page 7, line 19, delete "the standards" and insert "**standards**".

Page 7, line 19, delete "contained in the "Operational Standards".

Page 7, delete line 20.

Page 7, line 21, delete "Michigan Department of Agriculture,".

Page 7, line 22, after "maintenance," insert "**modification,**".

Page 7, line 23, after "chapter." insert "**In addition, the board shall adopt standards with respect to facilities, records, recovery protocol for any animals that become released, oversight responsibilities, and reporting. These standards must be published in a document entitled "Operational Standards for Registered Privately Owned Cervidae Facilities", which the board shall make available electronically on the board's web site.**".

Page 7, line 23, delete "department after" and insert "**board, after**".

Page 7, line 24, delete "resources and the board" and insert "**resources,**".

Page 7, line 33, before "number" insert "**estimated**".

Page 7, line 36, delete "identification." and insert "**identification, as required by the board.**".

Page 7, delete line 42.

Page 8, delete line 1 through 2.

Page 8, line 3, delete "(8)" and insert "**(7)**".

Page 8, line 5, delete "commissioner" and insert "**board**".

Page 8, line 6, delete "resources and the" and insert "**resources.**".

Page 8, delete lines 7 through 14.

Page 8, line 19, delete "commissioner and the commissioner" and insert "**board and the board**".

Page 8, line 30, delete "identified." and insert "**identified, as required by the board.**".

Page 8, line 32, delete "department" and inset "**board**".

Page 8, line 33, delete "The department" and insert "**The board**".

Page 8, line 33, delete "informal department" and insert "**informal board**".

Page 8, line 35, delete "department," and insert "**board, and**".

Page 8, line 35, delete "resources, and the" and insert "**resources.**".

Page 8, line 36, delete "board, if applicable.".

Page 8, line 36, delete "department" and insert "**board**".

Page 8, line 37, delete "commissioner" and insert "**board**".

Page 8, line 40, delete "commissioner" and insert "**board**".

Page 8, line 41, delete "department" and insert "**board**".

Page 9, line 2, delete "commissioner" and insert "**board**".

Page 9, line 5, delete "departmental" and insert "**board**".

Page 9, line 8, delete "department" and insert "**board**".

Page 9, line 10, delete "commissioner" and insert "**board**".

Page 9, line 11, delete "commissioner" and insert "**board**".

Page 9, line 15, delete "department" and insert "**board**".

Page 9, line 16, delete "department" and insert "**board**".

Page 9, line 18, delete "commissioner" and insert "**board**".

Page 9, line 20, delete "department" and insert "**board**".

Page 9, line 27, delete "department" and insert "**board**".

Page 9, line 32, delete "department review." and insert "**board review.**".

Page 9, line 32, delete "The department " and insert "**The board**".

Page 9, line 33, delete "department" and insert "**board**".

Page 9, line 34, delete "department," and insert "**board, and**".

Page 9, line 35, delete "resources, and the board, if applicable." and insert "**resources.**".

Page 9, line 36, delete "department" and insert "**board**".

Page 9, line 36, delete "commissioner" and insert "**board**".

Page 9, line 39, delete "commissioner" and insert "**board**".

Page 9, line 40, delete "department" and insert "**board**".

Page 9, line 42, delete "commissioner" and insert "**board**".

Page 10, line 4, delete "department" and insert "**board**".

Page 10, line 10, delete "department" and insert "**board**".

Page 10, line 21, delete "department" and insert "**board**".

Page 10, line 23, delete "department" and insert "**board**".

Page 10, line 26, delete "department shall maintain the following classifications" and insert "**board shall, subject to rules, charge five hundred dollars ($500) for initial and renewal applications for the registration of cervidae facilities.**".

Page 10, delete lines 27 through 32.

Page 10, line 33, delete "department" and insert "**board**".

Page 10, line 39, delete "department of agriculture," and insert "**board,**".

Page 10, line 40, delete "to be deposited in the livestock promotion fund".

Page 10, line 42, delete "natural resources, five percent (5%)" and insert "**agriculture, twenty percent (20%) to be deposited in the livestock promotion fund to be used to promote cervidae and administer this chapter.**".

Page 11, delete lines 1 through 4.

Page 11, line 5, delete "(4)" and insert "**(3)**".

Page 11, line 8, delete "department" and insert "**board**".

Page 11, line 17, delete "department" and insert "**board**".

Page 11, line 19, delete "department" and insert "**board**".

Page 11, line 22, delete "department" and insert "**board**".

Page 11, line 24, delete "department" and insert "**board**".

Page 11, line 29, delete "classification." and insert "**classification or a dramatic change in the business plan. The board shall provide the modification application to the applicant and make the application form available on the board's web site.**".

Page 11, delete lines 30 through 42.

Delete pages 12 through 14.

Page 15, delete line 1 through 9.

Page 15, line 10, delete "16." and insert "**10.**"

Page 15, line 10, delete "commissioner" and insert "**board**".

Page 15, line 15, delete "commissioner" and insert "**board**".

Page 15, line 22, delete "commissioner shall enter into a memorandum of" and insert "**board is responsible for investigating violations of this chapter.**".

Page 15, delete lines 23 through 27.

Page 15, line 28, delete "17." and insert "**11.**".

Page 15, line 36, delete "18." and insert "**12.**".

Page 15, line 36, delete "department or" and insert "**board or**".

Page 15, line 36, delete "department shall" and insert "**board shall**".

Page 16, line 1, delete "commissioner" and insert "**board**".

Page 16, line 7, delete "department" and insert "**board**".

Page 16, line 9, delete "19." and insert "**13.**".

Page 16, line 10, delete "department, commissioner, or".

Page 16, line 12, delete "commissioner's" and insert "**board's**".
Page 16, line 14, delete "20." and insert "**14.**".
Page 16, line 15, delete "department" and insert "**board**".
Page 16, line 16, delete "if:" and insert "**if the applicant or registrant fails to comply with this chapter or orders issued by the board as a result of an administrative action or informal board review conducted under this chapter.**".
Page 16, delete lines 17 through 27.
Page 16, line 28, delete "departmental" and insert "**board**".
Page 16, line 29, delete "department" and insert "**board**".
Page 16, line 31, delete "21." and insert "**15.**".
Page 16, line 31, delete "22" and insert "**16**".
Page 16, line 34, delete "22." and insert "**16.**".
Page 16, line 40, delete "department" and insert "**board**".
Page 17, line 3, delete "department" and insert "**board**".
Page 17, line 10, delete "D felony." and insert "**B misdemeanor.**".
Page 17, line 11, delete "23." and insert "**17.**".
Page 17, line 11, delete "department" and insert "**board**".
Page 17, line 13, delete "21" and insert "**15**".
Page 17, line 14, delete "22" and insert "**16**".
Page 17, line 16, delete "commissioner" and insert "**board**".
Page 17, line 24, delete "commissioner" and insert "**board**".
Page 17, line 29, delete "commissioner" and insert "**board**".
Page 17, line 37, delete "24." and insert "**18.**".
Page 17, line 37, delete "commissioner" and insert "**board**".
Page 17, after line 38, begin a new paragraph and insert:

"**Sec. 19. (a) As used in this section, "commercial channel of trade" means any series of transactions leading directly from a final producer of an agricultural commodity to the purchase of the agricultural commodity by a processor.**

(b) A fifteen dollar ($15) fee shall be remitted to the board by the seller of every cervidae that is one (1) year of age or older. A five dollar ($5) fee shall be remitted to the board by the seller of every cervidae that is less than one (1) year of age.

(c) The proceeds from the fees described in subsection (b) must be distributed in the following manner:

(1) Seventy five percent (75%) distributed to the board to be used to administer this chapter.

(2) Twenty percent (20%) distributed to the department for deposit in the livestock promotion fund to be used to promote cervidae and administer this chapter.

(3) Five percent (5%) distributed to the commissioner to be used by Indiana Deer and Elk Farmers Association under IC 15-4-3.5 to promote and market cervidae.

(d) A final producer shall pay the fees described in subsection (b) when the final producer places the agricultural commodity in a commercial channel of trade.

Sec. 20. No provision of this chapter shall be construed to restrict the board's authority under IC 15-2.1.

SECTION 6. [EFFECTIVE UPON PASSAGE] **The Indiana state board of animal health shall formulate proposed rules under IC 4-22-2 not later than September 1, 2005, with respect to the document described in IC 15-5-19-6, as added by this act, entitled "Operational Standards for Registered Privately Owned Cervidae Facilities".**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1780 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 2.

GUTWEIN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred House Bill 1791, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

MURPHY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1797, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-12-0.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The commission shall have the following powers and duties:

(1) To develop, continually keep current, and implement a long range plan for postsecondary education. In developing this plan, the commission shall take into account the plans and interests of the state private institutions, anticipated enrollments in state postsecondary institutions, financial needs of students, and other factors pertinent to the quality of educational opportunity available to the citizens of Indiana. The plan shall define the educational missions and the projected enrollments of the various state educational institutions.

(2) To consult with and make recommendations to the commission on vocational and technical education within the department of workforce development on all postsecondary vocational education programs. The commission shall biennially prepare a plan for implementing postsecondary vocational education programming after considering the long range state plan developed under IC 20-1-18.3-10. The commission shall submit this plan to the commission on vocational and technical education within the department of workforce development for its review and recommendations, and shall specifically report on how the plan addresses preparation for employment.

(3) To make recommendations to the general assembly and the governor concerning the long range plan, and prepare to submit drafts and proposed legislation needed to implement the plan. The commission may also make recommendations to the general assembly concerning the plan for postsecondary vocational education under subdivision (2).

(4) To review the legislative request budgets of all state educational institutions preceding each session of the general assembly and to make recommendations concerning appropriations and bonding authorizations to state educational institutions, including public funds for financial aid to students by any state agency. The commission may review all programs of any state educational institution, regardless of the source of funding, and may make recommendations to the governing board of the institution, the governor, and the general assembly concerning the funding and the disposition of the programs. In making this review, the commission may request and shall receive, in such form as may reasonably be required, from all state educational institutions, complete information concerning all receipts and all expenditures.

(5) To submit to the commission on vocational and technical education within the department of workforce development for its review under IC 20-1-18.3-15 the legislative budget requests prepared by state educational institutions for state and federal funds for vocational education. These budget requests shall be prepared upon request of the budget director, shall cover the period determined by the budget director, and shall be made available to the commission within the department of workforce development before review by the budget committee.

(6) To make, or cause to be made, studies of the needs for various types of postsecondary education and to make recommendations to the general assembly and the governor concerning the organization of these programs. The commission shall make or cause to be made studies of the needs for various types of postsecondary vocational education and shall submit to the commission on vocational and technical education within the department of workforce development the commission's findings in this regard.

(7) To approve or disapprove the establishment of any new branches, regional or other campuses, or extension centers or of any new college or school, or the offering on any campus of any additional associate, baccalaureate, or graduate degree, or of any additional program of two (2) semesters, or their equivalent

in duration, leading to a certificate or other indication of accomplishment. After March 29, 1971, no state educational institution shall establish any new branch, regional campus, or extension center or any new or additional academic college, or school, or offer any new degree or certificate as defined in this subdivision without the approval of the commission or without specific authorization by the general assembly. Any state educational institution may enter into contractual agreements with governmental units or with business and industry for specific programs to be wholly supported by the governmental unit or business and industry without the approval of the commission.

(8) If so designated by the governor or the general assembly, to serve as the agency for the purposes of receiving or administering funds available for postsecondary education programs, projects, and facilities for any of the acts of the United States Congress where the acts of Congress require the state to designate such an agency or commission. However, this subdivision does not provide for the designation of the commission by the governor as the recipient of funds which may be provided by acts of the United States Congress, received by an agency, a board, or a commission designated by the general assembly.

(9) To designate and employ an executive officer and necessary employees, to designate the titles of the executive officer and necessary employees, and to fix the compensation in terms of the employment.

(10) To appoint appropriate advisory committees composed of representatives of state educational institutions, representatives of private colleges and universities, students, faculty, and other qualified persons.

(11) To employ all powers properly incident to or connected with any of the foregoing purposes, powers, or duties, including the power to adopt rules.

(12) To develop a definition for and report biennially to the:

(A) general assembly;

(B) governor; and

(C) commission on vocational and technical education within the department of workforce development;

on attrition and persistence rates by students enrolled in state vocational education. A report under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.

(13) To submit a report to the legislative council not later than August 30 of each year on the status of the transfer of courses and programs between state educational institutions. The report must include any changes made during the immediately preceding academic year.

(14) To direct the activities of the committee, including the activities set forth in subdivisions (15) and (16).

(15) To develop through the committee statewide transfer of credit agreements for courses that are most frequently taken by undergraduates.

(16) To develop through the committee statewide agreements under which associate of arts and associate of science programs articulate fully with related baccalaureate degree programs.

(17) To publicize by all appropriate means, including an Internet web site, a master list of course transfer of credit agreements and program articulation agreements.

(18) To establish, with the assistance of the committee, a statewide core transfer library of at least seventy (70) courses that are transferable on all campuses of the state educational institutions in accordance with the principles in section 13 of this chapter.

(19) To establish, with the assistance of the committee, articulation agreements for at least twelve (12) degree programs:

(A) for which articulation agreements apply to any campus in the Ivy Tech State College system and to Vincennes University; and

(B) that draw from liberal arts and the technical, professional, and occupational fields.

SECTION 2. IC 20-12-0.5-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 13. (a) The commission shall exercise its powers and duties under section 8 of this chapter in a manner to facilitate the use of:**

(1) the core transfer library established under section 8(18) of this chapter at state educational institutions; and

(2) at least twelve (12) degree programs established under section 8(19) of this chapter at Ivy Tech State College and Vincennes University.

(b) The core transfer library developed under section 8(18) of this chapter shall be developed in accordance with the following principles:

(1) Each course in the core transfer library must transfer in and apply toward meeting degree requirements in the same way as the receiving state educational institution's equivalent course.

(2) Courses in the core transfer library must draw primarily from the liberal arts but must include introductory or foundational courses in technical, professional, and occupational fields.

(3) At least seventy (70) courses must be identified for inclusion in the core transfer library. The identified courses must emphasize the courses most frequently taken by undergraduates.

(4) With respect to core transfer library courses being transferred from a state educational institution to Indiana University or Purdue University, Indiana University and Purdue University must identify transfer equivalents so that a course accepted by one (1) regional campus is accepted by all other regional campuses that offer the same transfer equivalent course.

(5) Within the Indiana University system and the Purdue University system, courses with the same course number and title must count in the same way at all campuses within the system that also offer the same course with the same course number and title.

(c) The commission shall adopt rules under IC 4-22-2 and prescribe procedures to facilitate the use of the core transfer library, including designating courses in the core transfer library in all college and university catalogs and course listings under section 8(18) of this chapter, and at least twelve (12) degree programs established under section 8(19) of this chapter.

SECTION 3. IC 20-12-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The Ball State University board of trustees, Indiana State University board of trustees, the trustees of Indiana University, the trustees of Purdue University, and the University of Southern Indiana board of trustees, each as to its respective institution, shall have the power and duty:

(1) to govern the disposition and method and purpose of use of the property owned, used, or occupied by the institution, including the governance of travel over and the assembly upon the property;

(2) to govern, by specific regulation and other lawful means, the conduct of students, faculty, employees, and others while upon the property owned, used, or occupied by the institutions;

(3) to govern, by lawful means, the conduct of its students, faculty, and employees, wherever the conduct might occur, to the end of preventing unlawful or objectionable acts that seriously threaten the ability of the institution to maintain its facilities available for performance of its educational activities or that are in violation of the reasonable rules and standards of the institution designed to protect the academic community from unlawful conduct or conduct presenting a serious threat to person or property of the academic community;

(4) to dismiss, suspend, or otherwise punish any student, faculty member, or employee of the institution who violates the institution's rules or standards of conduct, after determination of guilt by lawful proceedings;

(5) to prescribe the fees, tuition, and charges necessary or convenient to the furthering of the purposes of the institution, **consistent with section 12 of this chapter and IC 20-12-76,** and to collect the prescribed fees, tuition, and charges;

(6) to prescribe the conditions and standards of admission of

students upon the bases as are in its opinion in the best interests of the state and the institution;

(7) to prescribe the curricula and courses of study offered by the institution and define the standards of proficiency and satisfaction within the curricula and courses established by the institution;

(8) to award financial aid to students and groups of students out of the available resources of the institution through scholarships, fellowships, loans, remissions of fees, tuitions, charges, or other funds on the basis of financial need, excellence of academic achievement, or potential achievement or any other basis as the governing board may find to be reasonably related to the educational purposes and objectives of the institution and in the best interest of the institution and the state;

(9) to cooperate with other institutions to the end of better assuring the availability and utilization of its total resources and opportunities to provide excellent educational opportunity for all persons;

(10) to establish and carry out written policies for the investment of the funds of the institution in the manner provided by IC 30-4-3-3; and

(11) to lease to any corporation, limited liability company, partnership, association, or individual real estate title to which is in the name of an institution or in the name of the state for the use and benefit of the leasing institution.

(b) A lease may be for such term and for such rental, either nominal or otherwise, as the board determines to be in the best interest of the institution. No lease shall be executed under this section for a term exceeding four (4) years unless the execution is approved by the governor and by the state budget agency. The universities shall be exempt from all property taxes on any real estate leased under this section, and the lessee shall be liable for property taxes on the leased real estate as if the real estate were owned by the lessee in fee simple, unless the lessee is a student living in university-owned facilities.

(c) This section shall not be construed to deny any tax exemption that a lessee would have under other laws if the lessee were the owner in fee simple of the real estate.

SECTION 4. IC 20-12-1-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 12. (a) As used in this section, "academic year" has the meaning set forth in IC 20-12-76-1.**

(b) As used in this section, "state educational institution" has the meaning set forth in IC 20-12-0.5-1.

(c) In each odd-numbered year, a state educational institution shall set tuition rates and fees for the two (2) academic years beginning after June 30 in the odd-numbered year. A state educational institution may adjust the tuition rates and fees for either of the two (2) academic years if any of the appropriations enacted by the general assembly for the academic year is withheld or reduced, subject to the process requirements in subsection (d).

(d) Before a state educational institution sets or adjusts tuition rates and fees under subsection (c), the state educational institution must do the following:

(1) Publish notice of the proposed tuition rates and fees. In an odd-numbered year, the notice must be published before April 15.

(2) Hold one (1) or more public meetings on a campus of the state educational institution to discuss the proposed tuition rates and fees. In an odd-numbered year, the public meetings must be held before May 15.

(3) Make public the state educational institution's decision on tuition rates and fees. In an odd-numbered year, publication of the tuition rates and fees must occur before the later of:

(A) May 15; or

(B) ten (10) days after adjournment of the general assembly.

(e) A state educational institution shall develop and offer a four (4) year baccalaureate degree completion guarantee program. The state educational institution shall report annually to the commission for higher education on the status of the program. The annual report must include the following:

(1) The percentage of students participating in the program.

(2) A comparison of four (4) year graduation rates of participating students with nonparticipating students.

SECTION 5. IC 20-12-19.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 19.7. Resident Tuition for Active Duty Military Personnel

Sec. 1. As used in this chapter, "state educational institution" has the meaning set forth in IC 20-12-0.5-1.

Sec. 2. This chapter applies to a person who is:

(1) a nonresident of Indiana;

(2) on active duty with a branch or department of the armed forces of the United States; and

(3) stationed in Indiana.

Sec. 3. Notwithstanding any other statute, a person described in section 2 of this chapter is eligible to pay the resident tuition rate at the state educational institution the person will attend as determined by the institution.".

Page 6, line 32, delete "Maximum Allowable" and insert "**Guaranteed**".

Page 9, after line 37, begin a new paragraph and insert:

"SECTION 9. [EFFECTIVE JULY 1, 2005] **(a) The commission for higher education shall complete the establishment of the initial core transfer library under IC 20-12-0.5-8(18), as amended by this act, for at least seventy (70) courses and the initial articulation agreements for at least twelve (12) degree programs under IC 20-12-0.5-8(19), as amended by this act, before July 1, 2006. State educational institutions shall assist the commission for higher education as necessary to comply with this SECTION.**

(b) This SECTION expires June 30, 2007.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1797 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 6, nays 5.

BEHNING, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1806, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 14, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 21. IC 6-1.1-4-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. (a) For assessment dates after February 28, 2005, except as provided in subsection (c), the true tax value of real property regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more and that has more than four (4) rental units is the lowest valuation determined by applying each of the following appraisal approaches:

(1) Cost approach that includes an estimated reproduction or replacement cost of buildings and land improvements as of the date of valuation together with estimates of the losses in value that have taken place due to wear and tear, design and plan, or neighborhood influences.

(2) Sales comparison approach, using data for generally comparable property.

(3) Income capitalization approach, using an applicable capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject property use.

(b) The gross rent multiplier method is the preferred method of valuing:

(1) real property that has at least one (1) and not more than four (4) rental units; and

(2) mobile homes assessed under IC 6-1.1-7.

(c) ~~A~~ **The:**

(1) elected township assessor; **or**

(2) county assessor for a township in which the county assessor assesses real property;

is not required to appraise real property referred to in subsection (a) using the three (3) appraisal approaches listed in subsection (a) if the ~~township~~ assessor and the taxpayer agree before notice of the assessment is given to the taxpayer under section 22 of this chapter to the determination of the true tax value of the property by the assessor using one (1) of those appraisal approaches.

(d) To carry out this section, the department of local government finance may adopt rules for assessors to use in gathering and processing information for the application of the income capitalization method and the gross rent multiplier method. A taxpayer must verify under penalties for perjury any information provided to the assessor for use in the application of either method.".

Page 35, line 41, after "If the" insert "**county or**".

Page 35, line 41, after "township" strike "assessor" and insert "**official referred to in subsection (a)**".

Page 35, line 41, delete "or the county assessor".

Page 36, line 10, strike "township".

Page 36, line 11, before "or" strike "assessor" and insert "**county**".

Page 36, line 11, strike "county assessor;" and insert "**township official referred to in subsection (a);**".

Page 50, line 33, after "elected" insert "**township**".

Page 50, line 37, after "for" insert "**real property**".

Page 51, line 2, after "for" insert "**real property**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1806 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 3.

HINKLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1828, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 21, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1836, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 14, delete "under:" and insert "**by the attorney general of the United States, a United States attorney, the attorney general of Indiana, or an Indiana prosecuting attorney under:**

(i) IC 34-24-1;

(ii) IC 34-24-2;

(iii) IC 34-24-3;

(iv) IC 5-11-5;

(v) IC 5-11-6;

(vi) IC 5-13-6;

(vii) IC 5-13-14-3; or

(viii) 18 U.S.C. 1964; or".

Page 1, delete lines 15 through 17.

Page 2, delete lines 1 through 3.

Page 2, line 13, delete "that individual's acts as an officer or employee," and insert "**an act that was within the scope of the official duties of the officer or employee**".

Page 2, line 15, after "reasonable" insert "**and customarily charged**".

Page 2, line 18, delete "the" and insert "**all**".

Page 2, line 18, after "charges." insert "**The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses, as determined by the fiscal body of the unit or municipal corporation, incurred in the officer's or employee's defense against those charges, if all charges have been dismissed or the officer or employee has been found not guilty of all charges.**".

Page 2, line 22, after "reasonable" insert "**and customarily charged**".

Page 2, line 24, delete "of the officer or".

Page 2, line 25, delete "employee that are the subject of the grand jury investigation".

Page 2, line 26, delete "officer's or employee's".

Page 2, line 26, after "duties" delete "." and insert "**of the officer or employee. The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses, as determined by the fiscal body of the unit or municipal corporation, incurred by the officer or employee as a result of the grand jury investigation, if the grand jury fails to indict the officer or employee.**".

Page 2, line 28, delete "2(1)(B)" and insert "**2(1)(B)(i) through 2(1)(B)(viii)**".

Page 2, line 29, after "chapter" insert "**and brought by a person described in section 2(1)(B) of this chapter that involves an action within the scope of the official duties of the officer or employee**".

Page 2, line 30, after "reasonable" insert "**and customarily charged**".

Page 2, line 31, after "action" insert "**. The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses incurred in the officer's or employee's defense against the civil action**".

Page 2, line 31, after "if" insert "**:**".

Page 2, line 31, delete "either:".

Page 2, line 34, delete "the officer or employee was found to have no liability" and insert "**a judgment is rendered in favor of the officer or employee on all counts**".

(Reference is to HB 1836 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

HINKLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1846, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-33-13-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) This section applies only to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 or IC 4-33-6.5.

(b) A graduated tax is imposed on the adjusted gross receipts received from gambling games authorized under this article as follows:

(1) Fifteen percent (15%) of the first twenty-five million dollars ($25,000,000) of adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year.

(2) Twenty percent (20%) of the adjusted gross receipts in excess of twenty-five million dollars ($25,000,000) but not exceeding fifty million dollars ($50,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(3) Twenty-five percent (25%) of the adjusted gross receipts in excess of fifty million dollars ($50,000,000) but not exceeding seventy-five million dollars ($75,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(4) Thirty percent (30%) of the adjusted gross receipts in excess of seventy-five million dollars ($75,000,000) but not exceeding one hundred fifty million dollars ($150,000,000) received

during the period beginning July 1 of each year and ending June 30 of the following year.

(5) **Before July 1, 2008,** thirty-five percent (35%) **and, after June 30, 2008, thirty-six percent (36%)** of all adjusted gross receipts in excess of one hundred fifty million dollars ($150,000,000) **received during the period beginning July 1 of each year and ending June 30 of the following year.**

(c) The licensed owner or operating agent shall remit the tax imposed by this chapter to the department before the close of the business day following the day the wagers are made.

(d) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

(e) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the licensed owner or operating agent to file a monthly report to reconcile the amounts remitted to the department.

(f) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under IC 4-33-12.

(g) If a riverboat implements flexible scheduling during any part of a period beginning July 1 of each year and ending June 30 of the following year, the tax rate imposed on the adjusted gross receipts received while the riverboat implements flexible scheduling shall be computed as if the riverboat had engaged in flexible scheduling during the entire period beginning July 1 of each year and ending June 30 of the following year.

(h) If a riverboat:

(1) implements flexible scheduling during any part of a period beginning July 1 of each year and ending June 30 of the following year; and

(2) before the end of that period ceases to operate the riverboat with flexible scheduling;

the riverboat shall continue to pay a wagering tax at the tax rates imposed under subsection (b) until the end of that period as if the riverboat had not ceased to conduct flexible scheduling.

SECTION 2. IC 4-33-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first:

(A) thirty-three million dollars ($33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (e); **and**

(B) ten million dollars ($10,000,000) from tax revenues collected on adjusted gross receipts subject to section 1.5(b)(5) of this chapter after June 30, 2008, and before July 1, 2041, shall be set aside for distribution under subsection (i).

(2) Subject to subsection (c), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); or

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A).

(3) Subject to subsection (d), the remainder of the tax revenue remitted by each licensed owner shall be paid to the property tax replacement fund. In each state fiscal year beginning after June 30, 2003, the treasurer of state shall make the transfer required by this subdivision not later than the last business day of the month in which the tax revenue is remitted to the state for deposit in the state gaming fund. However, if tax revenue is received by the state on the last business day in a month, the treasurer of state may transfer the tax revenue to the property tax replacement fund in the immediately following month.

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter as follows:

(1) Thirty-seven and one half percent (37.5%) shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(2) Thirty-seven and one-half percent (37.5%) shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b). However, at any time the balance in that fund exceeds twenty million dollars ($20,000,000), the amount described in this subdivision shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(3) Five percent (5%) shall be paid to the historic hotel preservation commission established under IC 36-7-11.5.

(4) Ten percent (10%) shall be paid in equal amounts to each town that:

(A) is located in the county in which the riverboat docks; and

(B) contains a historic hotel.

The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's tourism commission.

(5) Ten percent (10%) shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(A) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Sixty percent (60%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body shall provide for the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body:

(i) A town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(ii) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(c) For each city and county receiving money under subsection (a)(2)(A) or (a)(2)(C), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or

county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat wagering taxes that:

(1) exceeds a particular city or county's base year revenue; and

(2) would otherwise be due to the city or county under this section;

to the property tax replacement fund instead of to the city or county.

(d) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the property tax replacement fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars ($250,000,000):

(1) Surplus lottery revenues under IC 4-30-17-3.

(2) Surplus revenue from the charity gaming enforcement fund under IC 4-32-10-6.

(3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the property tax replacement fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the property tax replacement fund from the transfers under subsection (a)(3) for the state fiscal year.

(e) Before August 15 of 2003 and each year thereafter, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. Except as provided in subsection (h), the county auditor shall distribute the money received by the county under this subsection as follows:

(1) To each city located in the county according to the ratio the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(f) Money received by a city, town, or county under subsection (e) or (h) may be used for any of the following purposes:

(1) To reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5);

(2) For deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for additional credits for property tax replacement in property tax increment allocation areas or debt repayment.

(3) To fund sewer and water projects, including storm water management projects.

(4) For police and fire pensions.

(5) To carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town, or county. Money used under this subdivision does not reduce the property tax levy of the city, town, or county for a particular year or reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.

(g) This subsection does not apply to an entity receiving money under IC 4-33-12-6(c). Before September 15 of 2003 and each year thereafter, the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the property tax replacement fund. The amount of the supplemental distribution is equal to the difference between the entity's base year revenue (as determined under IC 4-33-12-6) and the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6.

(h) This subsection applies only to a county containing a consolidated city. The county auditor shall distribute the money received by the county under subsection (d) as follows:

(1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be paid in equal amounts to the consolidated city and the county.

(i) The treasurer of state shall transfer the first eight million dollars ($8,000,000) set aside under subsection (a)(1)(B) to the auditor of state for deposit in a special account for a county that constructs a football stadium (as defined in IC 6-9-30-5). The auditor of state shall transfer money in the special account to the capital improvement board of managers established under IC 36-10-9-3 on a monthly basis as the money is received. The remainder of the money set aside under subsection (a)(1)(B) shall be deposited in the property tax replacement fund.

SECTION 3. IC 6-6-9.7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The city-county council of a county that contains a consolidated city may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles and trucks in the county for periods of less than thirty (30) days. ~~The~~ **In any year following the year in which an ordinance initially imposing a tax under this chapter is adopted, the city-county council may adopt an ordinance increasing the tax imposed under this chapter up to the amount in subsection (b). An** ordinance **adopted under this section** must specify that the tax expires **on or before** December 31, ~~2027.~~ **2040.**

(b) The county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle or truck equals ~~two~~ **the percentage established in the ordinance adopted under subsection (a), which may not exceed four** percent ~~(2%)~~ **(4%)** of the gross retail income received by the retail merchant for the rental.

(c) If a city-county council adopts an ordinance under subsection (a), the city-county council shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(d) ~~If a city-county council adopts~~ An ordinance **adopted** under subsection (a) prior to June 1 ~~the county supplemental auto rental excise tax~~ applies to auto rentals after June 30 of the year in which the ordinance is adopted. ~~If the city-county council adopts~~ An ordinance **adopted** under subsection (a) on or after June 1 ~~the county supplemental auto rental excise tax~~ applies to auto rentals after the last day of the month in which the ordinance is adopted.

SECTION 4. IC 6-6-9.7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) All revenues collected from the county supplemental auto rental excise tax shall be deposited in a special account of the state general fund called the county supplemental auto rental excise tax account.

(b) On or before the twentieth day of each month, all amounts held in the county supplemental auto rental excise tax account shall be distributed to the capital improvement board of managers operating in a consolidated city. **The board shall deposit revenues received under this chapter that are attributable to the part of a tax rate exceeding two percent (2%) in a special fund. The money in the special fund may be used only to construct and equip a football stadium (as defined in IC 6-9-30-5), including the payment of principal and interest on obligations (as defined in IC 5-1-3-1) issued to finance or refinance the football stadium or the payment of lease payments (as described in IC 36-10-9) for the football stadium.**

(c) The amount to be distributed to the capital improvement board of managers operating in a consolidated city equals the total county supplemental auto rental excise taxes that were initially imposed and collected from within the county in which the consolidated city is located. The department shall notify the county auditor of the amount of taxes to be distributed to the board.

(d) All distributions from the county supplemental auto rental excise tax account shall be made by warrants issued by the auditor of state to the treasurer of state ordering those payments to the capital improvement board of managers operating in a consolidated city.

SECTION 5. IC 6-6-9.7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. This chapter expires January 1, ~~2028.~~ **2041.**

SECTION 6. IC 6-8.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed); the utility receipts tax (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various county food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); **the luxury suite tax (IC 6-9-30); the professional sports team excise tax (IC 6-9-35);** the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 7. IC 6-9-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Except as provided in subsection (b) **and section 3.5 of this chapter,** the tax imposed by section 2 of this chapter shall be at the rate of:

(1) before January 1, 2028, five percent (5%) on the gross income derived from lodging income only, if the fiscal body does not adopt an ordinance under subsection (b), and six percent (6%) if the fiscal body adopts an ordinance under subsection (b); and

(2) after December 31, 2027, five percent (5%).

(b) In any year subsequent to the initial year in which a tax is imposed under section 2 of this chapter, the fiscal body may, by ordinance adopted by at least two-thirds (2/3) of the members elected to the fiscal body, increase the tax imposed by section 2 of this chapter from five percent (5%) to six percent (6%). The ordinance must specify that the increase in the tax authorized under this subsection expires January 1, 2028.

(c) The amount collected from an increase adopted under subsection (b) shall be transferred to the capital improvement board of managers established by IC 36-10-9-3. The board shall deposit the revenues received under this subsection in a special fund. Money in the special fund may be used only for the payment of obligations incurred to expand a convention center, including:

(1) principal and interest on bonds issued to finance or refinance the expansion of a convention center; and

(2) lease agreements entered into to expand a convention center.

SECTION 8. IC 6-9-8-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.5. (a) In any year following the initial year in which the tax imposed under this chapter is increased under section 3(b) of this chapter, the fiscal body may, by ordinance, increase the rate of the tax imposed by section 2 of this chapter to an amount not to exceed nine percent (9%) of the gross income derived from lodging income only. The ordinance must specify that:**

(1) the increase in the rate of the tax authorized under this subsection expires December 31, 2040; and

(2) the rate of the tax after December 31, 2040, is five percent (5%) of the gross income derived from lodging income only.

(b) The amount collected from an increase adopted under this section shall be transferred to the capital improvement board of managers established under IC 36-10-9-3. The board shall deposit revenues received under this section in a special fund. The money in the special fund may be used only to construct and equip a football stadium (as defined in IC 6-9-30-5), including the payment of principal and interest on obligations (as defined in IC 5-1-3-1) issued to finance or refinance the football stadium or the payment of lease payments (as described in IC 36-10-9) for the football stadium.

(c) If the fiscal body adopts an ordinance under subsection (a) before June 1, the increased rate of the tax imposed by section 2 of this chapter applies after June 30 of the year in which the ordinance is adopted. If the fiscal body adopts an ordinance under subsection (a) on or after June 1, the increased rate of the tax imposed by section 2 of this chapter applies after the last day of the month in which the ordinance is adopted.

SECTION 9. IC 6-9-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in subsection (b), the city-county council of a county that contains a consolidated first class city may adopt an ordinance to impose an excise tax, known as the county admissions tax, for the privilege of attending, before January 1, ~~2028,~~ **2041,** any event and, after December 31, ~~2027,~~ **2040,** any professional sporting event:

(1) held in a facility financed in whole or in part by bonds or notes issued under IC 18-4-17 (before its repeal on September 1, 1981), IC 36-10-9, or IC 36-10-9.1; and

(2) to which tickets are offered for sale to the public by:

(A) the box office of the facility; or

(B) an authorized agent of the facility.

(b) The excise tax imposed under subsection (a) does not apply to the following:

(1) An event sponsored by an educational institution or an association representing an educational institution.

(2) An event sponsored by a religious organization.

(3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.

(4) An event sponsored by a political organization.

(c) If a city-county council adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(d) If a city-county council adopts an ordinance under subsection (a) prior to June 1, the county admissions tax applies to admission charges collected after June 30 of the year in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a) on or after June 1, the county admissions tax applies to admission charges collected after the last day of the month in which the ordinance is adopted.

SECTION 10. IC 6-9-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a) Except as provided by subsection (b),** the county admissions tax equals five percent (5%) of the price for admission to any event described in section 1 of this chapter.

(b) In any year following the initial year in which the county admissions tax is imposed under section 1 of this chapter, a city-county council may adopt an ordinance imposing an additional admissions tax, not exceeding ten dollars ($10), for admission to any combination of events that are described in:

(1) section 1(a) of this chapter;

(2) section 1(b)(1) of this chapter; or

(3) section 1(b)(3) of this chapter;

and held at a football stadium (as defined in IC 6-9-30-5).

(c) If a city-county council adopts an ordinance under subsection (b) before June 1, the increased rate of the county admissions tax applies to admission charges collected after June 30 of the year in which the ordinance is adopted. If a city-county

council adopts an ordinance under subsection (b) on or after June 1, the increased admissions tax applies to admission charges collected after the last day of the month in which the ordinance is adopted.

SECTION 11. IC 6-9-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The amounts received from the county admissions tax shall be paid monthly by the treasurer of the state to the treasurer of the capital improvement board of managers of the county upon warrants issued by the auditor of state. **The board shall deposit revenues received under section 2(b) of this chapter in a special fund. The money in the special fund may be used only to construct and equip a football stadium (as defined in IC 6-9-30-5), including the payment of principal and interest on obligations (as defined in IC 5-1-3-1) issued to finance or refinance the football stadium or the payment of lease payments (as described in IC 36-10-9) for the football stadium.**

SECTION 12. IC 6-9-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 30. Marion County Luxury Suite Tax

Sec. 1. As used in this chapter, "event" means an event described in IC 6-9-13-1 held at a football stadium.

Sec. 2. As used in this chapter, "fiscal body" has the meaning set forth in IC 36-1-2-6.

Sec. 3. As used in this chapter "gross retail income" refers to gross retail income as determined under IC 6-2.5-1.

Sec. 4. As used in this chapter, "luxury suite" means an enclosed or partially enclosed room and any contiguous balcony seats in a football stadium:

(1) that are designed to be used to observe or entertain at, or both, one (1) or more events; and

(2) for which a rental fee is charged that is separate from the price of admission to the event.

Sec. 5. As used in this chapter, "football stadium" refers to a building that:

(1) is constructed in a consolidated city after December 31, 2004;

(2) when added to the cost of site acquisition and improvements, costs or will cost at least four hundred million dollars ($400,000,000); and

(3) is designed to be used to regularly play substantially all of the home games of a National Football League team; and

any related parking facilities or other facilities needed to accommodate the attendance of the public. The term does not include a convention center. However, a building does not cease to be a football stadium if the building is incidentally used for convention activities that do not interfere with its use for a National Football League team.

Sec. 6. As used in this chapter, "person" has the meaning set forth in IC 6-2.5-1-3.

Sec. 7. As used in this chapter, "rental" includes lease and purchase of ownership rights.

Sec. 8. The fiscal body of a county with a consolidated city may adopt, amend, or repeal an ordinance to levy a tax on every person engaged in the business of renting or furnishing luxury suites located in the county. Whenever an ordinance is adopted, amended, or repealed under this section, the county auditor shall immediately send a certified copy of the ordinance to the department.

Sec. 9. The tax may not exceed a rate that when applied to all luxury suite rentals is reasonably likely to raise not more than one million dollars ($1,000,000) in a year.

Sec. 10. (a) An ordinance adopted under this chapter may require that the tax be reported on forms approved by the county treasurer and that the tax be paid monthly to the capital improvement board of managers operating in a consolidated city. If an ordinance including the provisions of this subsection is adopted, the tax shall be paid to the capital improvement board of managers operating in a consolidated city not more than twenty (20) days after the end of the month the tax is collected.

(b) If an ordinance does not include the provisions described in subsection (a), the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

Sec. 11. (a) All the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration are applicable to the imposition and administration of the tax imposed under this chapter except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. However, IC 6-2.5-4-4(d) does not apply to this chapter. The county treasurer may require the capital improvement board of managers operating in a consolidated city to make the reports concerning collections that the county treasurer determines necessary.

(b) If the tax is paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

Sec. 12. (a) This section applies if the tax is paid to the department of state revenue.

(b) All revenues collected from the county luxury suite tax shall be deposited in a special account of the state general fund called the county luxury suite tax account.

(c) On or before the twentieth day of each month, all amounts held in the county luxury suite tax account shall be distributed to the capital improvement board of managers operating in a consolidated city. All money distributed under this chapter shall be paid by the treasurer of state upon warrants issued by the auditor of state.

(d) The amount to be distributed to the capital improvement board of managers operating in a consolidated city equals the total county luxury suite taxes that are imposed and collected within the county in which the consolidated city is located. The department shall notify the county auditor of the amount of taxes to be distributed to the board.

Sec. 13. The capital improvement board operating in the consolidated city shall deposit revenues received under this chapter in a special fund. The money in the special fund may be used only to construct and equip a football stadium, including the payment of principal and interest on obligations (as defined in IC 5-1-3-1) issued to finance or refinance the football stadium or the payment of lease payments (as described in IC 36-10-9) for the football stadium.

Sec. 14. This chapter expires January 1, 2041.

SECTION 13. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 35. Professional Sports Team Excise Tax

Sec. 1. This chapter applies only to a county having a consolidated city.

Sec. 2. As used in this chapter, "department" refers to the department of state revenue.

Sec. 3. As used in this chapter, "fiscal body" has the meaning set forth in IC 36-1-2-6.

Sec. 4. As used in this chapter, "football stadium" has the meaning set forth in IC 6-9-30-5.

Sec. 5. As used in this chapter, "football stadium days" means the number of total duty days spent by a team member within Indiana rendering a service for the team in any manner during the taxable year in or at a football stadium, except those days spent in or at a football stadium for which a team member is on the disabled list.

Sec. 6. As used in this chapter, "team" has the meaning set forth in IC 6-3-2-2.7.

Sec. 7. As used in this chapter, "team member" has the meaning set forth in IC 6-3-2-2.7.

Sec. 8. As used in this chapter, "total duty days" has the meaning set forth in IC 6-3-2-2.7.

Sec. 9. As used in this chapter, "total income" has the meaning set forth in IC 6-3-2-2.7.

Sec. 10. The county fiscal body may adopt, amend, or repeal an ordinance to levy a professional sports team excise tax on each team member that uses a football stadium to render services for a team. Whenever an ordinance is adopted, amended, or repealed under this section, the county auditor shall immediately send a certified copy of the ordinance to the department.

Sec. 11. An excise tax is imposed under this chapter on a team member measured by the proportionate share of the team member's total income for a taxable year that is attributable to each day that the team member uses a football stadium to render service for a team. The tax imposed under this chapter is in addition to any other state or local tax imposed on total income.

Sec. 12. The amount of the tax for a taxable year is equal to the team member's total income multiplied by the lesser of the tax rate set in the ordinance adopted or amended under section 10 of this chapter or two percent (2%) and further multiplied by the following fraction:

(1) The numerator of the fraction is the team member's football stadium days for the taxable year.

(2) The denominator of the fraction is the team member's total duty days for the taxable year.

Sec. 13. It is presumed that this chapter results in a fair and equitable apportionment of the team member's total income to football stadium days. However, if the department demonstrates that the method provided under this chapter does not fairly and equitably apportion a team member's total income, the department may require the team member to apportion the team member's total income under another method that the department prescribes. The prescribed method must result in a fair and equitable apportionment. A team member may submit a proposal for an alternative method to apportion the team member's compensation if the team member demonstrates that the method provided under this chapter does not fairly and equitably apportion the team member's total income. If approved by the department, the proposed method must be fully explained in the team member's professional sports team excise tax return.

Sec. 14. The department may adopt rules under IC 4-22-2 to establish either of the following methods of simplifying return filing for team members of a team, if the team is not based in Indiana:

(1) A withholding system requiring a team to withhold total income for each team member and to remit the withheld taxes to Indiana on an annual basis. The department may require each team to submit information for each team member regarding total income, total income subject to tax under this chapter, and the amount of tax withheld. Remittance of the withholding and submission of the required information satisfies the team member's tax liability and return filing responsibilities. A team that is required to withhold and remit shall provide all participating team members with a statement evidencing the amount of tax withheld and remitted to Indiana. Even though a team is required to withhold and remit, a team member may file an individual professional sports team excise tax return to claim a refund if the amount remitted exceeds the amount otherwise owed using the methodology under this chapter. However, if the team member files an individual professional sports team excise tax return to claim a refund, the team member is required to notify the team member's state of residence of the filing.

(2) A composite return method that permits the filing of a composite tax return by the team on behalf of each team member. Other department rules concerning composite returns apply to the extent these rules are not inconsistent with this subdivision. The team must obtain approval from the department before filing a composite return. The team must obtain written authorization each taxable year from each team member who elects to participate in the composite return. The participating team members must acknowledge through their elections that the composite return constitutes an irrevocable filing and that they may not file a professional sports team excise tax return in Indiana. The team must maintain a power of attorney from each participating team member that authorizes the team to represent them in a protest or other appeal. The team and participating team members must agree that the team is responsible for any deficiencies, including penalties. The team shall withhold tax from each participating team member's total income and remit it to the state. The return must contain information for each participating team member regarding total income, total income subject to tax in Indiana using the methodology under this chapter, and the amount of tax due. Filing of the return and remittance of the tax satisfy the participating team member's tax liability and return filing responsibilities.

If the method under subdivision (1) or (2) is required, a team member's total income may not be reduced by using a deduction, an exemption, or an exclusion. For a team member to participate in either method, a team member's total income from the team must be the only source of income attributable to Indiana. If a team member leaves the team during a taxable year, the team remains responsible for remitting the appropriate tax and may either collect the tax paid from the team member or absorb the cost itself.

Sec. 15. Subject to this chapter, the tax imposed under this chapter shall be imposed, paid, and collected in exactly the same manner as the state adjusted gross income tax is imposed, paid, and collected under IC 6-3. The provisions of IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do not apply to the tax imposed by this chapter.

Sec. 16. (a) The department shall establish a professional sports team excise tax special account for the county imposing a tax under this chapter. The department shall deposit into the account the amount of professional sports team excise tax collected under this chapter. Refunds of overpayments of the tax imposed by this chapter shall be paid from the special account created for the county. If the amount of refunds exceeds the amount in the special account, the budget agency shall advance sufficient money to the special account to pay the refund. Repayment from the special account of an advance shall be made on the schedule established by the budget agency.

(b) On or before the twentieth day of each month, all amounts held in the county professional sports team excise tax special account shall be distributed to the capital improvement board of managers operating in a consolidated city.

(c) The amount to be distributed to the capital improvement board of managers operating in a consolidated city equals the total professional sports team excise tax imposed and collected from within the county in which the consolidated city is located. The department shall notify the county auditor of the amount of taxes to be distributed to the board.

(d) All distributions from the professional sports team excise tax special account shall be made by warrants issued by the auditor of state to the treasurer of state ordering those payments to the capital improvement board of managers operating in a consolidated city.

Sec. 17. The capital improvement board operating in the consolidated city shall deposit revenues received under this chapter in a special fund. The money in the special fund may be used only to construct and equip a football stadium, including the payment of principal and interest on obligations (as defined in IC 5-1-3-1) issued to finance or refinance the football stadium or the payment of lease payments (as described in IC 36-10-9) for the football stadium.

Sec. 18. This chapter expires January 1, 2041.

SECTION 14. IC 9-13-2-170 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 170. "Special group" means:

(1) a class or group of persons that the bureau finds:

~~(1) that:~~ ~~have~~ **(A) has** made significant contributions to the United States, Indiana, or the group's community or ~~(B)~~ are descendants of native or pioneer residents of Indiana;

~~(2)~~ ~~are~~ **(B) is** organized as a nonprofit organization (as defined under Section 501(c) of the Internal Revenue Code);

~~(3)~~ ~~are~~ **(C) is** organized for nonrecreational purposes; and

~~(4)~~ ~~are~~ **(D) is** organized as a separate, unique organization or as a coalition of separate, unique organizations; **or**

(2) a capital improvement board of managers created by IC 36-10-9-3.

SECTION 15. IC 9-18-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person who is the registered owner or lessee of a:

(1) passenger motor vehicle;

(2) motorcycle;
(3) recreational vehicle; or
(4) vehicle registered as a truck with a declared gross weight of not more than:
(A) eleven thousand (11,000) pounds;
(B) nine thousand (9,000) pounds; or
(C) seven thousand (7,000) pounds;

registered with the bureau or who makes an application for an original registration or renewal registration of a vehicle may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular license plate.

(b) A person who:
(1) is the registered owner or lessee of a vehicle described in subsection (a); and
(2) is eligible to receive a license plate for the vehicle under:
(A) IC 9-18-17 (prisoner of war license plates);
(B) IC 9-18-18 (disabled veteran license plates);
(C) IC 9-18-19 (purple heart license plates);
(D) IC 9-18-20 (Indiana national guard license plates);
(E) IC 9-18-21 (Indiana guard reserve license plates);
(F) IC 9-18-22 (license plates for persons with disabilities);
(G) IC 9-18-23 (amateur radio operator license plates);
(H) IC 9-18-24 (civic event license plates);
(I) IC 9-18-25 (special group recognition license plates);
(J) IC 9-18-29 (environmental license plates);
(K) IC 9-18-30 (kids first trust license plates);
(L) IC 9-18-31 (education license plates);
(M) IC 9-18-32.2 (drug free Indiana trust license plates);
(N) IC 9-18-33 (Indiana FFA trust license plates);
(O) IC 9-18-34 (Indiana firefighter license plates);
(P) IC 9-18-35 (Indiana food bank trust license plates);
(Q) IC 9-18-36 (Indiana girl scouts trust license plates);
(R) IC 9-18-37 (Indiana boy scouts trust license plates);
(S) IC 9-18-38 (Indiana retired armed forces member license plates);
(T) IC 9-18-39 (Indiana antique car museum trust license plates);
(U) IC 9-18-40 (D.A.R.E. Indiana trust license plates);
(V) IC 9-18-41 (Indiana arts trust license plates);
(W) IC 9-18-42 (Indiana health trust license plates);
(X) IC 9-18-43 (Indiana mental health trust license plates);
(Y) IC 9-18-44 (Indiana Native American Trust license plates);
(Z) IC 9-18-45.8 (Pearl Harbor survivor license plates);
(AA) IC 9-18-46.2 (Indiana state educational institution trust license plates);
(BB) IC 9-18-47 (Lewis and Clark bicentennial license plates); ~~or~~
(CC) IC 9-18-48 (Riley Children's Foundation license plates); **or**
(DD) IC 9-18-49 (capital improvement board team license plates).

may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular special recognition license plate.

SECTION 16. IC 9-18-25-1.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.8. Sections 15, 17, and 17.5 of this chapter do not apply to a capital improvement board special group recognition license plate issued under IC 9-18-49-2.**

SECTION 17. IC 9-18-49 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 49. Capital Improvement Board Team License Plates

Sec. 1. As used in this chapter, "capital improvement board" refers to a capital improvement board of managers created by IC 36-10-9-3.

Sec. 2. The bureau shall design and issue one (1) or more capital improvement board team license plates upon the request of a capital improvement board. The capital improvement board team license plates shall be designed and issued as special group recognition license plates under IC 9-18-25.

Sec. 3. A capital improvement board team license plate designed under IC 9-18-25 must include the following:
(1) A basic design for the plate, with consecutive numbers or letters, or both, to properly identify the vehicle.
(2) A background design, an emblem, or colors that designate the license plate as a capital improvement board team plate, with separate design, emblem, or colors for each capital improvement board team plate reflecting a different professional sports team as requested by the capital improvement board.

Sec. 4. A person who is eligible to register a vehicle under this title is eligible to receive a capital improvement board team license plate upon doing the following:
(1) Completing an application for a capital improvement board team license plate.
(2) Designating the particular capital improvement board team special group license plate desired.
(3) Paying the fees required by section 5 of this chapter.

Sec. 5. (a) The fees for a capital improvement board team license plate are as follows:
(1) The appropriate fee under IC 9-29-5-38.
(2) An annual fee of twenty-five dollars ($25) to be collected by the bureau.

(b) The annual fee described in subsection (a)(2) shall be deposited in the fund established by section 6 of this chapter.

Sec. 6. (a) The capital improvement board professional sports trust fund is established.

(b) The treasurer of state shall invest the money in the capital improvement board professional sports trust fund not currently needed to meet the obligations of the fund in the same manner as other public trust funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(c) The commissioner shall administer the capital improvement board professional sports trust fund. Expenses of administering the fund shall be paid from money in the fund.

(d) The auditor of state shall distribute the money from the capital improvement board professional sports trust fund to the capital improvement board each month. The capital improvement board shall deposit money received under this subsection in a special fund. The money in the special fund may be used only to construct and equip a football stadium (as defined in IC 6-9-30-5), including the payment of principal and interest on obligations (as defined in IC 5-1-3-1) issued to finance or refinance the football stadium or the payment of lease payments (as described in IC 36-10-9) for the football stadium.

(e) Money in the capital improvement board professional sports trust fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 18. IC 36-7-31-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports development area fund established for the county. The allocation provision must apply to the entire tax area. The resolution must provide that the tax area terminates not later than December 31, ~~2027.~~ **2040.**

(b) All of the salary, wages, bonuses, and other compensation that are:
(1) paid during a taxable year to a professional athlete for professional athletic services;
(2) taxable in Indiana; and
(3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

(c) The total amount of state revenue captured by the tax area may not exceed five million dollars ($5,000,000) per year ~~for twenty (20) consecutive years.~~ **before January 1, 2008, and twelve million dollars ($12,000,000) after December 31, 2007.**

(d) The resolution establishing the tax area, **or any amendment to the resolution,** must designate the facility and the facility site for which the tax area is established and covered taxes will be used.

(e) The department may adopt rules under IC 4-22-2 and

guidelines to govern the allocation of covered taxes to a tax area.

SECTION 19. IC 36-7-31-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. This chapter expires December 31, ~~2027.~~ **2040.**

SECTION 20. [EFFECTIVE JULY 1, 2005] **The general assembly finds that:**

(1) the retention of a professional football team in a consolidated city is critical to successful economic development in a consolidated city and is a public purpose;

(2) the retention of a professional football team in a consolidated city poses unique challenges due to the need for development of a suitable football stadium and related infrastructure that would not be needed apart from the needs related to retention of a professional football team in the consolidated city;

(3) encouragement of economic development in the consolidated city will:

(A) generate significant economic activity, a substantial portion of which results from persons residing outside Indiana, which may attract new businesses and encourage existing businesses to remain or expand in the consolidated city;

(B) promote the consolidated city to residents outside Indiana, which may attract residents outside Indiana and new businesses to relocate to the consolidated city;

(C) protect and increase state and local tax revenues; and

(D) encourage overall economic growth in the consolidated city and in Indiana;

(4) the consolidated city faces unique challenges in the development of infrastructure and other facilities necessary to promote economic development as a result of its need to rely on sources of revenue other than property taxes, due to the large number of tax exempt properties located in the consolidated city because the consolidated city is the seat of government, the home to multiple institutions of higher education, and the site of numerous state and regional nonprofit corporations;

(5) economic development benefits the health and welfare of the people of Indiana, is a public use and purpose for which public money may be spent, and is of public utility and benefit; and

(6) the purpose of this act is to provide additional means for the consolidated city to develop and finance a football stadium and related infrastructure in order to encourage economic development in the consolidated city.

(Reference is to HB 1846 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 17, nays 5.

ESPICH, Chair

Report adopted.

Representative Fry was excused for the rest of the day.

With consent of the members, the House returned to House Bills on second reading.

HOUSE BILLS ON SECOND READING

House Bill 1007

Representative Bosma called down House Bill 1007 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1007–1)

Mr. Speaker: I move that House Bill 1007 be amended to read as follows:

Page 1, line 5, after "rule;" insert "**or**".

Page 1, strike lines 6 through 7.

Page 1, line 8, strike "(4)" and insert "**(3)**".

(Reference is to HB 1007 as printed February 9, 2005.)

BOSMA

Motion prevailed.

HOUSE MOTION
(Amendment 1007–3)

Mr. Speaker: I move that House Bill 1007 be amended to read as follows:

Page 4, line 24, delete ":".

Page 4, line 25, delete "(1)".

Page 4, line 25, delete "; and".

Page 4, delete line 26.

Page 4, line 27, delete "have concurrent" and insert "**has**".

Page 4, run in lines 24 through 27.

Page 4, delete lines 41 through 42.

Page 5, delete lines 1 through 28.

Page 5, line 29, delete "(h)" and insert "**(e)**".

Page 5, line 34, delete "(i)" and insert "**(f)**".

Page 6, line 3, delete "or the inspector general, if applicable,".

Page 6, line 13, delete "both".

Page 6, line 13, delete "and the inspector general." and insert "**.**".

Page 6, line 19, delete "or the inspector general." and insert "**.**".

Page 6, line 22, delete "or the inspector".

Page 6, line 23, delete "general".

Page 6, line 28, delete "or the inspector general".

Page 6, line 30, delete "or the inspector general".

Page 6, line 39, delete "or the inspector general".

Page 7, line 6, delete "or the inspector general".

Page 7, line 8, delete "or the inspector general".

Page 7, line 10, delete "or the inspector general".

Page 7, line 12, delete "or the inspector general".

Page 7, line 14, delete "or the inspector general".

Page 7, line 15, delete "or the".

Page 7, line 16, delete "inspector general".

Page 7, line 19, delete "or the inspector general".

Page 7, line 25, delete "or the inspector general".

Page 7, line 35, delete ", the inspector".

Page 7, line 36, delete "general,".

Page 7, line 39, delete "or the inspector general".

Page 8, line 6, delete "or the inspector general".

Page 8, line 9, delete "or the inspector general".

Page 8, line 12, delete "and the inspector general have" and insert "**has**".

Page 8, line 14, delete "either".

Page 8, line 15, delete "or the inspector general".

Page 8, line 15, delete "a" and insert "**any**".

Page 8, line 16, delete "The attorney general may move to intervene at any time. If".

Page 8, delete lines 17 through 21.

Page 8, line 22, delete "inspector general may move to intervene.".

Page 8, line 22, delete "or".

Page 8, line 23, delete "the inspector general".

Page 8, line 24, delete "or the inspector general".

Page 8, line 25, delete "or the inspector general".

Page 8, line 27, delete "or the inspector general".

Page 8, line 40, delete "or the inspector general".

Page 9, line 13, delete "or the inspector general".

Page 9, line 19, delete "or the inspector general".

Page 9, line 32, delete "or the inspector general".

Page 10, line 2, delete "or the".

Page 10, line 3, delete "inspector general".

Page 10, line 11, delete "or the inspector general".

Page 10, line 21, delete "(2) the inspector general;".

Page 10, line 22, delete "(3)" and insert "**(4)**".

Page 10, line 23, delete "(4)" and insert "**(3)**".

Page 12, line 20, delete "commencing" and insert "**commencement of**".

(Reference is to HB 1007 as printed February 9, 2005.)

ORENTLICHER

Upon request of Representatives Whetstone and Yount, the Speaker ordered the roll of the House to be called. Roll Call 187: yeas 45, nays 48. Motion failed. The bill was ordered engrossed.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 7:30 p.m. with the Speaker in the Chair.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 7, 13, 54, 76, 198, 218, 231, 244, 267, 307, 310, 326, 363, 371, 400, and 421 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

With consent of the members, the House returned to reports from committees.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1184, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 30, delete "five" and insert "**three**".

Page 3, line 30, delete "($500,000)." and insert "**($300,000).**".

Page 4, delete lines 4 through 5, begin a new line double block indented and insert:

"**(B) the annual index for the fifth calendar year immediately preceding the current calendar year.**

STEP TWO: Subtract one (1) from the STEP ONE result.

STEP THREE: Divide the STEP TWO result by five (5).

STEP FOUR: Add one (1) to the STEP THREE result.".

Page 4, line 6, delete "TWO" and insert "**FIVE**".

Page 4, line 7, delete "ONE" and insert "**FOUR**".

Page 4, line 8, delete "THREE" and insert "**SIX**".

Page 4, line 8, delete "TWO" and insert "**FIVE**".

(Reference is to HB 1184 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 6, nays 5.

TORR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1274, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 5.

TORR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1536, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 11 through 24, begin a new paragraph and insert:

"SECTION 2. IC 22-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Every employer and every employee, except as stated in IC 22-3-2 through IC 22-3-6, shall comply with the provisions of IC 22-3-2 through IC 22-3-6 respectively to pay and accept compensation for personal injury or death by accident arising out of and in the course of the employment, and shall be bound thereby. **The burden of proof is on the employee. The proof by the employee of an element of a claim based on personal injury or death by accident does not create a presumption in favor of the employee with regard to another element of the claim.**

(b) IC 22-3-2 through IC 22-3-6 does not apply to railroad employees engaged in train service as:

(1) engineers;
(2) firemen;
(3) conductors;
(4) brakemen;
(5) flagmen;
(6) baggagemen; or
(7) foremen in charge of yard engines and helpers assigned thereto.

(c) IC 22-3-2 through IC 22-3-6 does not apply to employees of municipal corporations in Indiana who are members of:

(1) the fire department or police department of any such municipality; and
(2) a firefighters' pension fund or of a police officers' pension fund.

However, if the common council elects to purchase and procure worker's compensation insurance to insure ~~said~~ employees with respect to medical benefits under IC 22-3-2 through IC 22-3-6, the medical provisions of IC 22-3-2 through IC 22-3-6 apply to members of the fire department or police department of ~~any such~~ **a** municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

(d) When any municipal corporation purchases or procures worker's compensation insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund, and pays the premium or premiums for such insurance, the payment of such premiums is a legal and allowable expenditure of funds of any municipal corporation.

(e) Except as provided in subsection (f), where the common council has procured worker's compensation insurance under this section, ~~any~~ **a** member of ~~such~~ **the** fire department or police department employed in the city carrying such worker's compensation insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that ~~such~~ **the** services are provided for in the worker's compensation policy procured by ~~such~~ **the** city, and shall not also recover in addition to that policy for ~~such~~ **the** same benefits provided in IC 36-8-4.

(f) If the medical benefits provided under a worker's compensation policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

(g) The provisions of IC 22-3-2 through IC 22-3-6 apply to:

(1) members of the Indiana general assembly; and
(2) field examiners of the state board of accounts.".

Page 14, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 5. IC 22-3-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and
(2) each employer carrying the employer's own risk;

stating that an assessment is necessary. After June 30, 1999, the board

may conduct an assessment under this subsection not more than one (1) time annually. ~~Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that~~ **The total amount of the assessment** may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board may not consider payments for medical benefits in calculating an assessment under this subsection. If the amount to the credit of the second injury fund on or before October 1 of any year exceeds one million dollars ($1,000,000), the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than one million dollars ($1,000,000), the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment. **The board shall assess all employers for the liabilities, including administrative expenses, of the second injury fund. The total amount of the assessment shall be allocated between self-insured employers and insured employers based on paid losses for the preceding calendar year. The method of assessing self-insured employers shall be based on paid losses. The total amount of assessments allocated to insured employers shall be collected by the insured employers' worker's compensation insurers according to the proportion of each insurer's worker's compensation direct standard premiums during the preceding calendar year in relation to all insurer's worker's compensation direct standard premiums during the preceding calendar year. The portion of the total amount that is collected from self-insured employers is a sum equal to that proportion of the paid losses for the preceding calendar year, which the paid losses of all self-insured employers bore to the total paid losses made by all self-insured employers and insured employers during the preceding calendar year. The portion of the total amount that is collected from insured employers is a sum equal to that proportion of the total paid losses for the preceding calendar year, which the total paid losses on behalf of all insured employers bore to the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year. An employer who has ceased to be a self-insurer continues to be liable for assessments based on paid losses made by the employer in the preceding calendar year.**

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of insurance producer commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(f) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (h).

(h) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(j) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

SECTION 6. IC 22-3-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. In ~~all~~ cases of the death of an employee from an injury by an accident arising out of and in the course of the employee's employment under ~~such~~ circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of ~~such~~ **the** employee, not exceeding ~~six~~ **seven** thousand **five hundred** dollars ~~($6,000).~~ **($7,500).**".

Page 21, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 8. IC 22-3-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) The power and jurisdiction of the worker's compensation board over each case shall be continuing and from time to time it may, upon its own motion or upon the application of either party, on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to

the maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

(b) Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder.

(c) The board shall not make any such modification upon its own motion nor shall any application therefor be filed by either party after the expiration of two (2) years from the **latest of the following:**

(1) The last day for which compensation was paid under the original award made either by agreement or upon hearing, except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid **for:**

(A) temporary total disability;

(B) permanent partial impairment; or

(C) permanent total disability.

(2) The date of an award for:

(A) temporary total disability;

(B) permanent partial impairment; or

(C) permanent total disability.

(3) The last day that medical services under section 4 of this chapter were provided to the employee.

The board may at any time correct any clerical error in any finding or award.

SECTION 9. IC 22-3-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Every employer and every employee, except as stated in this chapter, shall comply with this chapter, requiring the employer and employee to pay and accept compensation for disablement or death by occupational disease arising out of and in the course of the employment, and shall be bound thereby. **The burden of proof is on the employee. The proof by the employee of an element of a claim based on disablement or death by occupational disease does not create a presumption in favor of the employee with regard to another element of the claim.**

(b) This chapter does not apply to employees of municipal corporations in Indiana who are members of:

(1) the fire department or police department of ~~any such~~ **a** municipality; and

(2) a firefighters' pension fund or a police officers' pension fund.

However, if the common council elects to purchase and procure worker's occupational disease insurance to insure ~~said~~ **the** employees with respect to medical benefits under this chapter, the medical provisions apply to members of the fire department or police department of ~~any such~~ **a** municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

(c) When any municipal corporation purchases or procures worker's occupational disease insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund and pays the premium or premiums for the insurance, the payment of the premiums is a legal and allowable expenditure of funds of any municipal corporation.

(d) Except as provided in subsection (e), where the common council has procured worker's occupational disease insurance as provided under this section, ~~any~~ **a** member of the fire department or police department employed in the city carrying the worker's occupational disease insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that the services are provided for in the worker's occupational disease policy ~~so~~ procured by the city, and may not also recover in addition to that policy for the same benefits provided in IC 36-8-4.

(e) If the medical benefits provided under a worker's occupational disease policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

(f) Nothing in this section affects the rights and liabilities of employees and employers had by them prior to April 1, 1963, under this chapter.

SECTION 10. IC 22-3-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. In ~~all~~ cases of the death of an employee from an occupational disease arising out of and in the course of the employee's employment under ~~such~~ circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of ~~such~~ **the** employee, not exceeding ~~six~~ **seven** thousand **five hundred** dollars ~~($6,000).~~ **($7,500)**.".

Page 44, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 14. IC 22-3-7-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) If the employer and the employee or the employee's dependents disagree in regard to the compensation payable under this chapter, or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or as to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute. When compensation which is payable in accordance with an award or by agreement approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned.

(b) The application making claim for compensation filed with the worker's compensation board shall state the following:

(1) The approximate date of the last day of the last exposure and the approximate date of the disablement.

(2) The general nature and character of the illness or disease claimed.

(3) The name and address of the employer by whom employed on the last day of the last exposure, and if employed by any other employer after such last exposure and before disablement, the name and address of such other employer or employers.

(4) In case of death, the date and place of death.

(5) Amendments to applications making claim for compensation which relate to the same disablement or disablement resulting in death originally claimed upon may be allowed by the board in its discretion, and, in the exercise of such discretion, it may, in proper cases, order a trial de novo. Such amendment shall relate back to the date of the filing of the original application so amended.

(c) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the parties, in the manner prescribed by the board, of the time and place of hearing. The hearing of all claims for compensation on account of occupational disease shall be held in the county in which the last exposure occurred or in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the board member's jurisdiction.

(d) The board by any or all of its members shall hear the parties at issue, their representatives, and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent by registered mail to each of the parties in dispute.

(e) If an application for review is made to the board within thirty (30) days from the date of the award made by less than all the members, the full board, if the first hearing was not held before the full board, shall review the evidence, or, if deemed advisable, hear the parties at issue, their representatives, and witnesses as soon as practicable, and shall make an award and file the same with the finding of the facts on which it is based and send a copy thereof to each of the parties in dispute, in like manner as specified in subsection (d).

(f) An award of the board by less than all of the members as provided in this section, if not reviewed as provided in this section, shall be final and conclusive. An award by the full board shall be conclusive and binding unless either party to the dispute, within thirty

(30) days after receiving a copy of such award, appeals to the court of appeals under the same terms and conditions as govern appeals in ordinary civil actions. The court of appeals shall have jurisdiction to review all questions of law and of fact. The board, of its own motion, may certify questions of law to the court of appeals for its decision and determination. An assignment of errors that the award of the full board is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the award and the sufficiency of the evidence to sustain the finding of facts. All such appeals and certified questions of law shall be submitted upon the date filed in the court of appeals, shall be advanced upon the docket of the court, and shall be determined at the earliest practicable date, without any extensions of time for filing briefs. An award of the full board affirmed on appeal, by the employer, shall be increased thereby five percent (5%), and by order of the court may be increased ten percent (10%).

(g) Upon order of the worker's compensation board made after five (5) days notice is given to the opposite party, any party in interest may file in the circuit or superior court of the county in which the disablement occurred a certified copy of the memorandum of agreement, approved by the board, or of an order or decision of the board, or of an award of the full board unappealed from, or of an award of the full board affirmed upon an appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though such judgment has been rendered in a suit duly heard and determined by the court. Any such judgment of such circuit or superior court, unappealed from or affirmed on appeal or modified in obedience to the mandate of the court of appeals, shall be modified to conform to any decision of the industrial board ending, diminishing, or increasing any weekly payment under the provisions of subsection (i) upon the presentation to it of a certified copy of such decision.

(h) In all proceedings before the worker's compensation board or in a court under the compensation provisions of this chapter, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court.

(i) The power and jurisdiction of the worker's compensation board over each case shall be continuing, and, from time to time, it may, upon its own motion or upon the application of either party on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in this chapter. When compensation which is payable in accordance with an award or settlement contract approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned. Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder. The board shall not make any such modification upon its own motion, nor shall any application therefor be filed by either party after the expiration of two (2) years from the **latest of the following:**

(1) The last day for which compensation was paid under the original award made either by agreement or upon hearing, except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid **for:**

(A) temporary total disability;

(B) permanent partial impairment; or

(C) permanent total disability.

(2) The date of an award for:

(A) temporary total disability;

(B) permanent partial impairment; or

(C) permanent total disability.

(3) The last day that medical services under section 17 of this chapter were provided to the employee.

The board may at any time correct any clerical error in any finding or award.

(j) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Such physician or surgeon shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such physician or surgeon shall be paid by the state only on special order of the board or a member thereof.

(k) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified industrial hygienist, industrial engineer, industrial physician, or chemist to make any necessary investigation of the occupation in which the employee alleges that he was last exposed to the hazards of the occupational disease claimed upon, and testify with respect to the occupational disease health hazards found by such person or persons to exist in such occupation. Such person or persons shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such persons shall be paid by the state, only on special order of the board or a member thereof.

(l) Whenever any claimant misconceives the claimant's remedy and files an application for adjustment of a claim under IC 22-3-2 through IC 22-3-6 and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury or death which was the basis for such application should properly have been made under the provisions of this chapter, then the application so filed under IC 22-3-2 through IC 22-3-6 may be amended in form or substance or both to assert a claim for such disability or death under the provisions of this chapter, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the worker's compensation board when deemed necessary. Nothing in this section contained shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice or time for filing a claim, but notice of filing of a claim, if given or done, shall be deemed to be a notice or filing of a claim under the provisions of this chapter if given or done within the time required in this chapter.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1536 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 5.

TORR, Chair

Report adopted.

Representative Dickinson rose to a point of order suggesting the absence of a quorum and requesting a quorum call.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum.

The Speaker left the voting machine open for some time so that members could indicate their presence.

Representatives T. Brown, GiaQuinta, Mays, and Ulmer were excused for the rest of the day.

The Speaker ordered the absentees to be called.

At 9:05 p.m., a quorum was established. Roll Call 188: 85 present, 8 excused.

The Speaker announced that, with consent of the members, adoption of three committee reports would be reconsidered to allow discussion of those reports.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

Speaker Bosma and Representatives Bottorff, C. Brown, Cochran, Crooks, and Oxley were excused for the rest of the day.

Adoption of the following committee reports was reconsidered and the reports were discussed individually.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1184, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 30, delete "five" and insert "**three**".

Page 3, line 30, delete "($500,000)." and insert "**($300,000).**".

Page 4, delete lines 4 through 5, begin a new line double block indented and insert:

"**(B) the annual index for the fifth calendar year immediately preceding the current calendar year.**

STEP TWO: Subtract one (1) from the STEP ONE result.

STEP THREE: Divide the STEP TWO result by five (5).

STEP FOUR: Add one (1) to the STEP THREE result.".

Page 4, line 6, delete "TWO" and insert "**FIVE**".

Page 4, line 7, delete "ONE" and insert "**FOUR**".

Page 4, line 8, delete "THREE" and insert "**SIX**".

Page 4, line 8, delete "TWO" and insert "**FIVE**".

(Reference is to HB 1184 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 6, nays 5.

TORR, Chair

Upon request of Representatives Bauer and Stilwell, the Chair ordered the roll of the House to be called. Roll Call 189: yeas 46, nays 39. Report adopted.

Representative Moses was excused for the rest of the day.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1536, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 11 through 24, begin a new paragraph and insert:

"SECTION 2. IC 22-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Every employer and every employee, except as stated in IC 22-3-2 through IC 22-3-6, shall comply with the provisions of IC 22-3-2 through IC 22-3-6 respectively to pay and accept compensation for personal injury or death by accident arising out of and in the course of the employment, and shall be bound thereby. **The burden of proof is on the employee. The proof by the employee of an element of a claim based on personal injury or death by accident does not create a presumption in favor of the employee with regard to another element of the claim.**

(b) IC 22-3-2 through IC 22-3-6 does not apply to railroad employees engaged in train service as:

(1) engineers;

(2) firemen;

(3) conductors;

(4) brakemen;

(5) flagmen;

(6) baggagemen; or

(7) foremen in charge of yard engines and helpers assigned thereto.

(c) IC 22-3-2 through IC 22-3-6 does not apply to employees of municipal corporations in Indiana who are members of:

(1) the fire department or police department of any such municipality; and

(2) a firefighters' pension fund or of a police officers' pension fund.

However, if the common council elects to purchase and procure worker's compensation insurance to insure ~~said~~ employees with respect to medical benefits under IC 22-3-2 through IC 22-3-6, the medical provisions of IC 22-3-2 through IC 22-3-6 apply to members of the fire department or police department of ~~any such~~ **a** municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

(d) When any municipal corporation purchases or procures worker's compensation insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund, and pays the premium or premiums for such insurance, the payment of such premiums is a legal and allowable expenditure of funds of any municipal corporation.

(e) Except as provided in subsection (f), where the common council has procured worker's compensation insurance under this section, ~~any~~ **a** member of ~~such~~ **the** fire department or police department employed in the city carrying such worker's compensation insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that ~~such~~ **the** services are provided for in the worker's compensation policy procured by ~~such~~ **the** city, and shall not also recover in addition to that policy for ~~such~~ **the** same benefits provided in IC 36-8-4.

(f) If the medical benefits provided under a worker's compensation policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

(g) The provisions of IC 22-3-2 through IC 22-3-6 apply to:

(1) members of the Indiana general assembly; and

(2) field examiners of the state board of accounts.".

Page 14, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 5. IC 22-3-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk;

stating that an assessment is necessary. After June 30, 1999, the board may conduct an assessment under this subsection not more than one (1) time annually. ~~Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that~~ **The total amount of the assessment** may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board may not consider payments for medical benefits in calculating an assessment under this subsection. If the amount to the credit of the second injury fund on or before October 1 of any year exceeds one million dollars ($1,000,000), the assessment

allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than one million dollars ($1,000,000), the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment. **The board shall assess all employers for the liabilities, including administrative expenses, of the second injury fund. The total amount of the assessment shall be allocated between self-insured employers and insured employers based on paid losses for the preceding calendar year. The method of assessing self-insured employers shall be based on paid losses. The total amount of assessments allocated to insured employers shall be collected by the insured employers' worker's compensation insurers according to the proportion of each insurer's worker's compensation direct standard premiums during the preceding calendar year in relation to all insurer's worker's compensation direct standard premiums during the preceding calendar year. The portion of the total amount that is collected from self-insured employers is a sum equal to that proportion of the paid losses for the preceding calendar year, which the paid losses of all self-insured employers bore to the total paid losses made by all self-insured employers and insured employers during the preceding calendar year. The portion of the total amount that is collected from insured employers is a sum equal to that proportion of the total paid losses for the preceding calendar year, which the total paid losses on behalf of all insured employers bore to the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year. An employer who has ceased to be a self-insurer continues to be liable for assessments based on paid losses made by the employer in the preceding calendar year.**

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of insurance producer commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(f) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (h).

(h) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(j) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

SECTION 6. IC 22-3-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. In ~~all~~ cases of the death of an employee from an injury by an accident arising out of and in the course of the employee's employment under ~~such~~ circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of ~~such~~ **the** employee, not exceeding ~~six~~ **seven** thousand **five hundred** dollars ~~($6,000).~~ **($7,500).**".

Page 21, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 8. IC 22-3-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) The power and jurisdiction of the worker's compensation board over each case shall be continuing and from time to time it may, upon its own motion or upon the application of either party, on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

(b) Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder.

(c) The board shall not make any such modification upon its own motion nor shall any application therefor be filed by either party after the expiration of two (2) years from the **latest of the following:**

(1) The last day for which compensation was paid under the original award made either by agreement or upon hearing, except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid **for:**

(A) temporary total disability;

(B) permanent partial impairment; or

(C) permanent total disability.

(2) The date of an award for:

(A) temporary total disability;

(B) permanent partial impairment; or

(C) permanent total disability.

(3) The last day that medical services under section 4 of this chapter were provided to the employee.

The board may at any time correct any clerical error in any finding or award.

SECTION 9. IC 22-3-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Every employer and every employee, except as stated in this chapter, shall comply with this chapter, requiring the employer and employee to pay and accept compensation for disablement or death by occupational disease arising out of and in the course of the employment, and shall be bound thereby. **The burden of proof is on the employee. The proof by the employee of an element of a claim based on disablement or death by occupational disease does not create a presumption in favor of the employee with regard to another element of the claim.**

(b) This chapter does not apply to employees of municipal corporations in Indiana who are members of:

(1) the fire department or police department of ~~any such~~ **a** municipality; and

(2) a firefighters' pension fund or a police officers' pension fund.

However, if the common council elects to purchase and procure worker's occupational disease insurance to insure ~~said~~ **the** employees with respect to medical benefits under this chapter, the medical provisions apply to members of the fire department or police department of ~~any such~~ **a** municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

(c) When any municipal corporation purchases or procures worker's occupational disease insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund and pays the premium or premiums for the insurance, the payment of the premiums is a legal and allowable expenditure of funds of any municipal corporation.

(d) Except as provided in subsection (e), where the common council has procured worker's occupational disease insurance as provided under this section, ~~any~~ **a** member of the fire department or police department employed in the city carrying the worker's occupational disease insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that the services are provided for in the worker's occupational disease policy ~~so~~ procured by the city, and may not also recover in addition to that policy for the same benefits provided in IC 36-8-4.

(e) If the medical benefits provided under a worker's occupational disease policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

(f) Nothing in this section affects the rights and liabilities of employees and employers had by them prior to April 1, 1963, under this chapter.

SECTION 10. IC 22-3-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. In ~~all~~ cases of the death of an employee from an occupational disease arising out of and in the course of the employee's employment under ~~such~~ circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of ~~such~~ **the** employee, not exceeding ~~six~~ **seven** thousand **five hundred** dollars ~~($6,000).~~ **($7,500)**.".

Page 44, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 14. IC 22-3-7-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) If the employer and the employee or the employee's dependents disagree in regard to the compensation payable under this chapter, or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or as to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute. When compensation which is payable in accordance with an award or by agreement approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned.

(b) The application making claim for compensation filed with the worker's compensation board shall state the following:

(1) The approximate date of the last day of the last exposure and the approximate date of the disablement.

(2) The general nature and character of the illness or disease claimed.

(3) The name and address of the employer by whom employed on the last day of the last exposure, and if employed by any other employer after such last exposure and before disablement, the name and address of such other employer or employers.

(4) In case of death, the date and place of death.

(5) Amendments to applications making claim for compensation which relate to the same disablement or disablement resulting in death originally claimed upon may be allowed by the board in its discretion, and, in the exercise of such discretion, it may, in proper cases, order a trial de novo. Such amendment shall relate back to the date of the filing of the original application so amended.

(c) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the parties, in the manner prescribed by the board, of the time and place of hearing. The hearing of all claims for compensation on account of occupational disease shall be held in the county in which the last exposure occurred or in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the board member's jurisdiction.

(d) The board by any or all of its members shall hear the parties at issue, their representatives, and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent by registered mail to each of the parties in dispute.

(e) If an application for review is made to the board within thirty (30) days from the date of the award made by less than all the members, the full board, if the first hearing was not held before the full board, shall review the evidence, or, if deemed advisable, hear the parties at issue, their representatives, and witnesses as soon as practicable, and shall make an award and file the same with the finding of the facts on which it is based and send a copy thereof to each of the parties in dispute, in like manner as specified in subsection (d).

(f) An award of the board by less than all of the members as provided in this section, if not reviewed as provided in this section, shall be final and conclusive. An award by the full board shall be conclusive and binding unless either party to the dispute, within thirty (30) days after receiving a copy of such award, appeals to the court of appeals under the same terms and conditions as govern appeals in ordinary civil actions. The court of appeals shall have jurisdiction to review all questions of law and of fact. The board, of its own motion, may certify questions of law to the court of appeals for its decision and determination. An assignment of errors that the award of the full board is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the award and the sufficiency of the evidence to sustain the finding of facts. All such appeals and certified questions of law shall be submitted upon the date filed in the court of appeals, shall be advanced upon the docket of the court, and shall be determined at the earliest practicable date, without any extensions of time for filing briefs. An award of the full board affirmed on appeal, by the employer, shall be increased thereby five percent (5%), and by order of the court may be increased ten percent (10%).

(g) Upon order of the worker's compensation board made after five (5) days notice is given to the opposite party, any party in interest may file in the circuit or superior court of the county in which the disablement occurred a certified copy of the memorandum of

agreement, approved by the board, or of an order or decision of the board, or of an award of the full board unappealed from, or of an award of the full board affirmed upon an appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though such judgment has been rendered in a suit duly heard and determined by the court. Any such judgment of such circuit or superior court, unappealed from or affirmed on appeal or modified in obedience to the mandate of the court of appeals, shall be modified to conform to any decision of the industrial board ending, diminishing, or increasing any weekly payment under the provisions of subsection (i) upon the presentation to it of a certified copy of such decision.

(h) In all proceedings before the worker's compensation board or in a court under the compensation provisions of this chapter, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court.

(i) The power and jurisdiction of the worker's compensation board over each case shall be continuing, and, from time to time, it may, upon its own motion or upon the application of either party on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in this chapter. When compensation which is payable in accordance with an award or settlement contract approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned. Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder. The board shall not make any such modification upon its own motion, nor shall any application therefor be filed by either party after the expiration of two (2) years from the **latest of the following:**

(1) The last day for which compensation was paid under the original award made either by agreement or upon hearing, except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid **for:**

(A) temporary total disability;

(B) permanent partial impairment; or

(C) permanent total disability.

(2) The date of an award for:

(A) temporary total disability;

(B) permanent partial impairment; or

(C) permanent total disability.

(3) The last day that medical services under section 17 of this chapter were provided to the employee.

The board may at any time correct any clerical error in any finding or award.

(j) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Such physician or surgeon shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such physician or surgeon shall be paid by the state only on special order of the board or a member thereof.

(k) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified industrial hygienist, industrial engineer, industrial physician, or chemist to make any necessary investigation of the occupation in which the employee alleges that he was last exposed to the hazards of the occupational disease claimed upon, and testify with respect to the occupational disease health hazards found by such person or persons to exist in such occupation. Such person or persons shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such persons shall be paid by the state, only on special order of the board or a member thereof.

(l) Whenever any claimant misconceives the claimant's remedy and files an application for adjustment of a claim under IC 22-3-2 through IC 22-3-6 and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury or death which was the basis for such application should properly have been made under the provisions of this chapter, then the application so filed under IC 22-3-2 through IC 22-3-6 may be amended in form or substance or both to assert a claim for such disability or death under the provisions of this chapter, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the worker's compensation board when deemed necessary. Nothing in this section contained shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice or time for filing a claim, but notice of filing of a claim, if given or done, shall be deemed to be a notice or filing of a claim under the provisions of this chapter if given or done within the time required in this chapter.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1536 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 5.

TORR, Chair

Upon request of Representatives Dobis and Stilwell, the Chair ordered the roll of the House to be called. Roll Call 190: yeas 46, nays 38. Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1274, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 5.

TORR, Chair

Upon request of Representatives Tincher and Stilwell, the Chair ordered the roll of the House to be called. Roll Call 191: yeas 46, nays 38. Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

HOUSE MOTION

Mr. Speaker: I move that Representative Budak be added as coauthor of House Bill 1007.

BOSMA

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Yount and Orentlicher be added as coauthors of House Bill 1222.

KOCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Borders be added as coauthor of House Bill 1223.

KOCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as coauthor of House Bill 1294.

WHETSTONE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as coauthor of House Bill 1322.

J. LUTZ

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Bardon be added as coauthor of House Bill 1350.

BURTON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Robertson be added as coauthor of House Bill 1351.

BURTON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as coauthor of House Bill 1374.

WALORSKI

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative C. Brown be added as coauthor of House Bill 1441.

T. BROWN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Crooks be added as coauthor of House Bill 1525.

ALDERMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as coauthor of House Bill 1568.

CHERRY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative C. Brown be added as coauthor of House Bill 1596.

T. BROWN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Cherry be removed as coauthor of House Bill 1612.

BUCK

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ruppel be added as coauthor of House Bill 1763.

BURTON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Behning be added as coauthor of House Bill 1797.

POND

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Espich be added as author of House Bill 1846.

ESPICH

Motion prevailed.

With consent of the members, the House returned to House Bills on second reading.

HOUSE BILLS ON SECOND READING

House Bill 1170

Representative Hinkle called down House Bill 1170 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1170–2)

Mr. Speaker: I move that House Bill 1170 be amended to read as follows:

Page 6, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 5. IC 20-5-2-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. If a school corporation police officer or other employee reasonably believes that a person has committed:**

(1) battery (as defined in IC 35-42-2-1); or

(2) any other offense involving bodily injury (as defined in IC 35-41-1-4);

against any school corporation employee on school corporation property or at a school activity, function, or event, the school corporation shall immediately notify the appropriate law enforcement agency having jurisdiction over the property where the school is located.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1170 as printed February 18, 2005.)

GOODIN

Motion prevailed. The bill was ordered engrossed.

House Bill 1218

Representative Ayres called down House Bill 1218 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1218–2)

Mr. Speaker: I move that House Bill 1218 be amended to read as follows:

Page 13, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 16. IC 9-21-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Except as provided in subsection (e), whenever a local authority in the authority's jurisdiction determines ~~on the basis of an engineering and traffic investigation~~ that the maximum speed permitted under this chapter is greater or less than reasonable and safe under the conditions found to exist on a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit on the highway. The maximum limit declared under this section may do any of the following:

(1) Decrease the limit within urban districts, but not to less than twenty (20) miles per hour.

(2) Increase the limit within an urban district, but not to more than fifty-five (55) miles per hour during daytime and fifty (50) miles per hour during nighttime.

(3) Decrease the limit outside an urban district, but not to less than thirty (30) miles per hour.

(4) Decrease the limit in an alley, but to not less than five (5) miles per hour.

(5) Increase the limit in an alley, but to not more than thirty (30) miles per hour.

The local authority must perform an engineering and traffic investigation before a determination may be made to change a speed limit under subdivision (2), (3), (4), or (5) or before the speed limit within an urban district may be decreased to less than twenty-five (25) miles per hour under subdivision (1).

(b) A local authority in the authority's jurisdiction shall determine by an engineering and traffic investigation the proper maximum speed for all local streets and shall declare a reasonable and safe maximum speed permitted under this chapter for an urban district. **However, an engineering and traffic study is not required to be performed for the local streets in an urban district under this subsection if the**

local authority determines that the proper maximum speed in the urban district is not less than twenty-five (25) miles per hour.

(c) An altered limit established under this section is effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice of the altered limit are erected on the street or highway.

(d) Except as provided in this subsection, a local authority may not alter a speed limit on a highway or extension of a highway in the state highway system. A city or town may establish speed limits on state highways upon which a school is located. However, a speed limit established under this subsection is valid only if the following conditions exist:

(1) The limit is not less than twenty (20) miles per hour.

(2) The limit is imposed only in the immediate vicinity of the school.

(3) Children are present.

(4) The speed zone is properly signed.

(5) The Indiana department of transportation has been notified of the limit imposed by certified mail.

(e) A local authority may decrease a limit on a street to not less than fifteen (15) miles per hour if the following conditions exist:

(1) The street is located within a park or playground established under IC 36-10.

(2) The:

(A) board established under IC 36-10-3;

(B) board established under IC 36-10-4; or

(C) park authority established under IC 36-10-5;

requests the local authority to decrease the limit.

(3) The speed zone is properly signed.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1218 as printed February 22, 2005.)

PIERCE

Motion prevailed.

HOUSE MOTION
(Amendment 1218–1)

Mr. Speaker: I move that House Bill 1218 be amended to read as follows:

Page 28, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 43. IC 36-9-36-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The following improvements may be made under this chapter by a county:

(1) Sanitary sewers and sanitary sewer tap-ins.

(2) Sidewalks.

(3) Curbs.

(4) Streets.

(5) Storm sewers.

(6) Lighting.

(7) Emergency warning sirens.

~~(7)~~ **(8)** Any other structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, sewage, storm drainage, and other drainage of a municipality.

(b) The following improvements may be made under this chapter by a municipality:

(1) Sidewalks.

(2) Curbs.

(3) Streets.

(4) Alleys.

(5) Paved public places.

(6) Lighting.

(7) A water main extension for a municipality that owns and operates a water utility.

(8) Emergency warning sirens.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1218 as printed February 22, 2005.)

FOLEY

Motion prevailed.

HOUSE MOTION
(Amendment 1218–3)

Mr. Speaker: I move that House Bill 1218 be amended to read as follows:

Page 27, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 42. IC 36-6-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) This section does not apply to the appropriation of money to pay a deputy, an employee, or a technical adviser that assists a township assessor with assessment duties or to an elected township assessor.

(b) The township legislative body shall fix the:

(1) salaries;

(2) wages;

(3) rates of hourly pay; and

(4) remuneration other than statutory allowances;

of all officers and employees of the township.

(c) Subject to subsection (d), the township legislative body may reduce the salary of an elected or appointed official. However, **except as provided in subsection (i),** the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(d) Except as provided in ~~subsection~~ **subsections** (e) **and (i),** the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but it may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

(e) In a township that does not elect a township assessor under IC 36-6-5-1, the township legislative body may appropriate available township funds to supplement the salaries of elected or appointed officers to compensate them for performing assessing duties. However, in any calendar year no officer or employee may receive a salary and additional salary supplements which exceed the salary fixed for that officer or employee under subsection (b).

(f) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the township executive and assessor under this section, to take effect January 1 of the next year. However, the township legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

(g) The township legislative body may not reduce the salary of the township executive without the consent of the township executive during the term of office of the township executive as set forth in IC 36-6-4-2.

(h) This subsection applies when a township executive dies or resigns from office. The person filling the vacancy of the township executive shall receive at least the same salary the previous township executive received for the remainder of the unexpired term of office of the township executive (as set forth in IC 36-6-4-2), unless the person consents to a reduction in salary.

(i) In a year in which there is not an election of members to the township legislative body, the township legislative body may by unanimous vote reduce the salaries of the members of the township legislative body by any amount.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1218 as printed February 22, 2005.)

THOMPSON

Motion prevailed. The bill was ordered engrossed.

House Bill 1223

Representative Koch called down House Bill 1223 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1223–1)

Mr. Speaker: I move that House Bill 1223 be amended to read as follows:

Page 8, line 4, delete "Liquid ephedrine or pseudoephedrine (as defined in" and insert "**A pharmacy may release a record relating to the purchase of a material, compound, mixture, or preparation that contains a quantity of ephedrine or pseudoephedrine (pure or adulterated) to a law enforcement officer in accordance with state and federal health privacy laws**.

(f) The Indiana board of pharmacy may adopt rules under

IC 4-22-2 to implement subsection (e).".

Page 8, delete line 5.

Renumber all SECTIONS consecutively.

(Reference is to HB 1223 as printed February 15, 2005.)

VAN HAAFTEN

Motion prevailed. The bill was ordered engrossed.

House Bill 1226

Representative Richardson called down House Bill 1226 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1226–1)

Mr. Speaker: I move that House Bill 1226 be amended to read as follows:

Page 13, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 29. IC 20-3-23 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 23. Election of School Board Members in East Chicago

Sec. 1. This chapter applies:

(1) after December 31, 2005; and

(2) to a school corporation located in a city that has a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

Sec. 2. IC 20-4-10.1 does not apply to a school corporation or the governing body of a school corporation governed by this chapter.

Sec. 3. The governing body of the school corporation consists of the following members:

(1) Four (4) members elected at large by the registered voters of the entire school corporation. The members elected under this subdivision shall be elected on a nonpartisan basis at a primary election held in the county.

(2) Two (2) members appointed by the mayor of the city.

(3) One (1) member appointed by the city legislative body.

Sec. 4. Upon assuming office and in conducting the business of the governing body, a member shall represent the interests of the entire school corporation.

Sec. 5. The following apply to an election of members of the governing body of the school corporation:

(1) Each candidate must file a petition of nomination with the circuit court clerk not later than seventy-four (74) days before the election at which members are to be elected. The petition of nomination must include the following information:

(A) The name of the candidate.

(B) The signatures of at least one hundred (100) registered voters residing within the school corporation.

(C) A certification that the candidate meets the qualifications for candidacy imposed by this chapter.

(2) Only eligible voters residing in the school corporation may vote for a candidate.

Sec. 6. The Indiana state board of education, with assistance from the county election board, shall establish balloting procedures under IC 3 for the election and all other procedures required to implement this chapter.

Sec. 7. The term of office of each member of the governing body of the school corporation is as follows:

(1) For an elected member of the governing body, four (4) years beginning July 1 following the member's election.

(2) For an appointed member of the governing body, four (4) years beginning on the date the member's predecessor's term expires.

Sec. 8. (a) Two (2) elected members of the governing body of the school corporation shall be elected at the primary election held in each even numbered year.

(b) The mayor of the city shall appoint one (1) member of the governing body of the school corporation before July 1 of each even numbered year.

(c) The city legislative body shall appoint a member of the governing body of the school corporation before July 1, 2006, and every four (4) years thereafter.

Sec. 9. (a) A vacancy in the office of an elected member of the governing body of the school corporation shall be filled temporarily by the governing body as soon as practicable after the vacancy occurs. An individual filling a vacancy under this subsection serves until the expiration of the term of the member whose position the individual fills.

(b) A vacancy in the office of an appointed member of the governing body of the school corporation shall be filled by the appointing authority as soon as practicable after the vacancy occurs. An individual filling a vacancy under this subsection serves until the expiration of the term of the member whose position the individual fills.

Sec. 10. (a) Before August 1 of each year, the school corporation shall file with the state superintendent of public instruction the following information:

(1) A list containing the names and addresses of each member of the governing body of the school corporation and the date of the expiration of each member's term of office.

(2) A list containing the names and addresses of each of the school corporation's officers and the date of the expiration of each officer's term of office.

(b) The school corporation shall file any change in the information under subsection (a) not later than thirty (30) days after the change occurs.".

Page 13, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 31. IC 20-4-10.1-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 0.5. This chapter does not apply to a school corporation or the governing body of a school corporation governed by IC 20-3-23.**".

Page 25, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 40. [EFFECTIVE JULY 1, 2005] **(a) This SECTION applies to a school corporation and the governing body of the school corporation in a city that has a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).**

(b) Notwithstanding any other law, the terms of the members of the governing body of the school corporation who hold office on June 30, 2006, expire July 1, 2006.

(c) On July 1, 2006, all powers, duties, and functions adhering to the governing body of the school corporation in existence on June 30, 2006, are transferred to the governing body established by IC 20-3-23, as added by this act.

(d) On July 1, 2006, the property and records of the governing body of the school corporation in existence on June 30, 2006, are transferred to the governing body established by IC 20-3-23, as added by this act.

(e) Notwithstanding IC 20-3-23-8, as added by this act, the four (4) elected members of the governing body of the school corporation shall be elected at the primary election to be held on May 2, 2006. IC 3 and IC 20-3-23, as added by this act, except to the extent those provisions conflict with this SECTION, apply to the election held under this subsection.

(f) Notwithstanding IC 20-3-23-7, as added by this act, the terms of office of the members elected under subsection (e) expire as follows:

(1) The terms of office of the two (2) members who receive the greatest and next greatest numbers of votes in the election expire July 1, 2010.

(2) The terms of office of the two (2) members elected but who are not described in subdivision (1) expire July 1, 2008.

(g) The successors of the members described in subsection (f) shall be elected as follows:

(1) The successors of the members described in subsection (f)(1) shall each be elected for a four (4) year term at the primary election held May 4, 2010, as provided in IC 20-3-23-7 and IC 20-3-23-8, both as added by this act.

(2) The successors of the members described in subsection (f)(2) shall each be elected for a four (4) year term at the primary election held May 6, 2008, as provided in IC 20-3-23-7 and IC 20-3-23-8, both as added by this act.

(h) This SECTION expires July 1, 2010.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1226 as printed February 22, 2005.)

AGUILERA

Upon request of Representatives Aguilera and Dobis, the Chair ordered the roll of the House to be called. Roll Call 192: yeas 37, nays 46. Motion failed. The bill was ordered engrossed.

House Bill 1245

Representative Woodruff called down House Bill 1245 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1245–1)

Mr. Speaker: I move that House Bill 1245 be amended to read as follows:

Page 2, line 1, after "is" insert "**located in Indiana and is**".

Page 4, delete lines 8 through 21.

Page 4, line 22, delete "(8)" and insert "**(5)**".

Page 4, line 29, delete "(9)" and insert "**(6)**".

Page 4, line 29, delete "at the".

Page 4, line 30, delete "location where the qualified investment is made".

Page 4, line 31, after "payroll" insert "**paid to Indiana residents**".

Page 4, delete lines 34 through 38.

Page 4, line 39, delete "(11)" and insert "**(7)**".

Page 4, line 41, delete "(12)" and insert "**(8)**".

(Reference is to HB 1245 as printed February 22, 2005.)

WOODRUFF

Motion prevailed. The bill was ordered engrossed.

House Bill 1374

Representative Walorski called down House Bill 1374 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1374–1)

Mr. Speaker: I move that House Bill 1374 be amended to read as follows:

Page 2, line 3, delete "occasion." and insert "**occasion; that is organized by or for a nonprofit organization exempt from taxation under Section 501(c) of the Internal Revenue Code.**".

(Reference is to HB 1374 as printed February 22, 2005.)

BARDON

Upon request of Representatives Stilwell and Cochran, the Chair ordered the roll of the House to be called. Roll Call 193: yeas 73, nays 11. Motion prevailed. The bill was ordered engrossed.

House Bill 1393

Representative Stutzman called down House Bill 1393 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1393–2)

Mr. Speaker: I move that House Bill 1393 be amended to read as follows:

Page 3, line 20, delete "and (6)." and insert "**(6), and (7).**".

Page 3, between lines 41 and 42, begin a new line block indented and insert:

"**(7) Sixty (60) miles per hour on a highway that:**

(A) is not designated as a part of the national system of interstate and defense highways;

(B) has four (4) or more lanes;

(C) is divided into two (2) or more roadways by:

(i) an intervening space that is unimproved and not intended for vehicular travel;

(ii) a physical barrier; or

(iii) a dividing section constructed to impede vehicular traffic; and

(D) is located outside of an urbanized area (as defined in 23 U.S.C. 101) with a population of at least fifty thousand (50,000).".

(Reference is to HB 1393 as printed February 11, 2005.)

WOLKINS

Motion prevailed.

HOUSE MOTION
(Amendment 1393–1)

Mr. Speaker: I move that House Bill 1393 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-9.5-8-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9.5. The department may not sell, convey, transfer, or lease:**

(1) a toll road project operated by the department under a lease with the authority under section 8 of this chapter;

(2) the right to operate a toll road project operated by the department under a lease with the authority under section 8 of this chapter; or

(3) the right to fix, impose, and collect tolls on a toll road project operated by the department under a lease with the authority under section 8 of this chapter;

to a private entity.".

Page 3, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 3. IC 8-15-2-19.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 19.5. The authority may not sell, convey, transfer, or lease:**

(1) a toll road project constructed or operated by the authority;

(2) the right to operate a toll road project; or

(3) the right to fix, impose, and collect tolls on a toll road project;

to a private entity.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1393 as printed February 11, 2005.)

L. LAWSON

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative L. Lawson's amendment (1393–1) is not germane to House Bill 1393.

Rule 80 provides a member the right to amend a bill on subjects germane to the subject of the bill under consideration. Amendment 1 is germane to House Bill 1393 because both measures concern the toll road.

PELATH
L. LAWSON

The Speaker Pro Tempore yielded the gavel to Representative Friend.

The question was, Shall the ruling of the Chair be sustained? Roll Call 194: yeas 47, nays 36. The ruling of the Chair was sustained.

There being no further amendments, the bill was ordered engrossed.

House Bill 1429

Representative Turner called down House Bill 1429 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1429–1)

Mr. Speaker: I move that House Bill 1429 be amended to read as follows:

Page 1, line 6, delete "each maximum and medium" and insert "**any**".

Page 1, line 7, delete "facility." and insert "**facility approved by the commissioner.**"

Page 1, line 8, delete "must" and insert "**may**".

Page 3, line 12, delete "Beginning in 2006, by December 1 of each year, the" and insert "**The**".

Page 3, line 14, delete "program." and insert "**program one (1) year after its inception and continue to provide a report to the legislative council on or before December 1 of each year.**".

Page 3, line 40, delete "seek to enter" and insert "**report progress on entering**".

Page 4, line 2, delete "commissioner's progress under subsection (c). The" and insert "**status on implementing a pilot project and report a target date for the commencement of the pilot project. A report under subsection (c) and this subsection**".

Page 4, line 3, delete "report".

(Reference is to HB February 22, 2005.)

TURNER

Motion prevailed.

HOUSE MOTION
(Amendment 1429–2)

Mr. Speaker: I move that House Bill 1429 be amended to read as follows:

Page 1, delete line 13.

Page 1, line 14, delete "(5)" and insert "**(4)**".

Page 1, line 15, delete "(6)" and insert "**(5)**".

Page 2, line 4, after "(c)" insert "**Faith and religion programming may be provided in a transitional dormitory if a secular alternative to the faith and religion programming is available to all inmates in the transitional dormitory.**

(d)".

Page 2, line 6, delete "dormitory." and insert "**dormitory, but a faith based organization must comply with subsection (c).**".

Page 3, line 14, delete "faith based".

Page 3, line 18, delete "faith based".

Page 3, line 21, delete "faith based".

Page 3, line 23, delete "faith based".

Page 3, line 26, delete "faith based".

Page 3, line 27, delete "and".

Page 3, line 28, delete "faith based".

Page 3, line 30, delete "faith based".

Page 3, line 32, delete "." and insert "**; and**".

Page 3, between lines 32 and 33, begin a new line block indented and insert:

"**(4) a comparison between the experiences of inmates:**

(A) participating in faith based programming; and

(B) not participating in faith based programming.".

Page 3, line 41, delete "faith based".

(Reference is to HB 1429 as printed February 22, 2005.)

ORENTLICHER

Upon request of Representatives Whetstone and Yount, the Chair ordered the roll of the House to be called. Roll Call 195: yeas 23, nays 58. Motion failed. The bill was ordered engrossed.

Representative Friend yielded the gavel to the Speaker Pro Tempore, Representative Turner.

House Bill 1434

Representative Hinkle called down House Bill 1434 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1434–1)

Mr. Speaker: I move that House Bill 1434 be amended to read as follows:

Page 7, line 1, after "building;" insert "**and**".

Page 12, after line 17, begin a new paragraph and insert:

"**Sec. 9. (a) If an interior designer has a civil judgment entered against the interior designer by a court of competent jurisdiction in a civil judicial proceeding for negligence, recklessness, willful misconduct, or other breach of standard of care in the practice of interior design, the secretary of state shall immediately withdraw the interior designer's certificate of registration under this article.**

(b) An interior designer who has a civil judgment described in subsection (a) entered against the interior designer is ineligible to be registered under this article.".

(Reference is to HB 1434 as printed February 22, 2005.)

HINKLE

Motion prevailed. The bill was ordered engrossed.

Representative Kuzman was excused for the rest of the day.

House Bill 1518

Representative Murphy called down House Bill 1518 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1518–3)

Mr. Speaker: I move that House Bill 1518 be amended to read as follows:

Page 5, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 9. IC 8-1-2.6-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 0.7. As used in this chapter, "incumbent local exchange carrier" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and is either of the following:**

(1) A telephone utility that on February 8, 1996, provided telephone exchange service in the geographic territory and was considered to be a member of the exchange carrier association under 47 CFR 69.601(b).

(2) A person or an entity that on or after February 8, 1996, became a successor or assignee of a member of the exchange carrier association described in subdivision (1).

SECTION 10. IC 8-1-2.6-0.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 0.8. As used in this chapter, "payphone service provider" means an entity, other than an incumbent local exchange carrier, that owns and operates public or semipublic pay telephones or pay telephones used to provide telephone service in correctional institutions.**".

Page 7, line 1, delete "The" and insert "**Except as provided in section 16 of this chapter, the**".

Page 7, line 16, delete "section 12" and insert "**sections 12 and 16**".

Page 14, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 10. IC 8-1-2.6-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 16. Notwithstanding any other statute, the commission shall retain jurisdiction to establish just and reasonable rates that may be charged by an incumbent local exchange carrier to a payphone service provider. Rates established under this section must be:**

(1) based on the costs incurred by the incumbent local exchange carrier to provide the service;

(2) consistent with the requirements of 47 U.S.C. 276;

(3) nondiscriminatory; and

(4) consistent with the pricing guidelines for payphone service providers established by the Federal Communications Commission.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1518 as printed February 22, 2005.)

YOUNT

Motion prevailed.

HOUSE MOTION
(Amendment 1518–4)

Mr. Speaker: I move that House Bill 1518 be amended to read as follows:

Page 19, delete lines 38 through 42, begin a new paragraph and insert:

"SECTION 27. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.**

(b) Not later than November 15, 2006, the commission shall submit to the regulatory flexibility committee established by IC 8-1-2.6-4 a report that includes an analysis of the following

issues:

(1) The status of competition in Indiana within the wireline and wireless telecommunications industries and between the wireline and wireless telecommunications industries.

(2) The level of concentration of ownership in the telecommunications industry and the degree to which corporate mergers, acquisitions, and buyouts within the industry affect consumer choices and pricing in Indiana.

(3) For each county in Indiana, a breakdown of the number of available providers of the following services:

(A) Wireline telephone services.

(B) Wireless telephone services.

(C) Wireless broadband services.

(D) Broadband services other than wireless broadband services.

(4) The amount of investment in telecommunications infrastructure in Indiana by investor owned or privately held companies compared to the level of revenues generated in Indiana by the investor owned or privately held companies. The analysis required by this subdivision must indicate the location within Indiana of the telecommunications infrastructure described.

(5) The effects of the following on universal service in Indiana:

(A) The convergence of telecommunications services and technologies.

(B) State and federal regulatory decisions.

(6) The degree to which the use of new technologies in the telecommunications industry affects the reliability of telecommunications services, including the provision of enhanced 911 services and 211 services.

(7) The impact on consumers and telecommunications providers of:

(A) federal telecommunications laws and regulations; and

(B) state and federal judicial decisions concerning telecommunications laws and regulations.

(8) A comparison of Indiana's contributions to the federal universal services fund versus federal universal service fund allocations or discounts provided to eligible recipients in Indiana.

(c) The report prepared under this SECTION may be made in conjunction with the commission's annual report to the regulatory flexibility committee under IC 8-1-2.6-4. The commission shall include in the report any recommendations for proposed legislation:

(1) concerning the issues analyzed in the report; and

(2) that the commission determines to be in the public interest.

(d) This SECTION expires December 1, 2007.

SECTION 28. **An emergency is declared for this act.**".

Delete page 20.

Renumber all SECTIONS consecutively.

(Reference is to HB 1518 as printed February 22, 2005.)

AUSTIN

On the motion of Representative Whetstone the previous question was called. Upon request of Representatives Austin and Pierce, the Chair ordered the roll of the House to be called. Roll Call 196: yeas 58, nays 22. Motion prevailed. The bill was ordered engrossed.

House Bill 1568

Representative Cherry called down House Bill 1568 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1568–1)

Mr. Speaker: I move that House Bill 1568 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 15. (a) The acquisition and improvement of land for use by the public as an airport and the maintenance of commercial passenger aircraft is a municipal purpose regardless of whether the airport or maintenance facility is owned or operated by a municipality. The owner of any airport located in this state, who holds a valid and current public airport certificate issued by the Indiana department of transportation, may claim an exemption for only so much of the land as is reasonably necessary to and used for public airport purposes. A person maintaining commercial passenger aircraft in a county having a population of more than two hundred thousand (200,000) but less than four hundred thousand (400,000) may claim an exemption for commercial passenger aircraft not subject to the aircraft excise tax under IC 6-6-6.5 that is being assessed under this article, if it is located in the county ~~only~~ for ~~the~~ purposes of maintenance.

(b) The exemption provided by this section is noncumulative and applies only to property that would not otherwise be exempt. Nothing contained in this section applies to or affects any other tax exemption provided by law.

(c) As used in this section, "land used for public airport purposes" includes the following:

(1) That part of airport land used for the taking off or landing of aircraft, taxiways, runway and taxiway lighting, access roads, auto and aircraft parking areas, and all buildings providing basic facilities for the traveling public.

(2) Real property owned by the airport owner and used directly for airport operation and maintenance purposes.

(3) Real property used in providing for the shelter, storage, or care of aircraft, including hangars.

(4) Housing for weather and signaling equipment, navigational aids, radios, or other electronic equipment.

The term does not include land areas used solely for purposes unrelated to aviation.

(d) As used in this section, "maintenance" means maintenance (as defined in 14 CFR 1.1) or preventive maintenance (as defined in 14 CFR 1.1). The term includes scheduled inspections undertaken to determine whether maintenance (as defined in 14 CFR 1.1) or preventive maintenance (as defined in 14 CFR 1.1) is needed or desirable.".

Page 5, after line 25, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] **IC 6-1.1-10-15, as amended by this act, applies only to assessments of property made after December 31, 2004. The amendment of IC 6-1.1-10-15 by this act shall not be construed to disallow any exemption granted before January 1, 2005.**

SECTION 5. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1568 as printed February 22, 2005.)

DVORAK

Motion prevailed. The bill was ordered engrossed.

House Bill 1602

Representative Dvorak called down House Bill 1602 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1602–1)

Mr. Speaker: I move that House Bill 1602 be amended to read as follows:

Page 3, between lines 8 and 9, begin a new line block indented and insert:

"(7) One (1) nonvoting member recommended by the Indiana Builders Association and appointed by the chairman of the legislative council.

(8) One (1) nonvoting member recommended by the Indiana Association of Realtors and appointed by the chairman of the legislative council.

(9) One (1) nonvoting member recommended by the Indiana Farm Bureau and appointed by the chairman of the legislative council.

(10) One (1) nonvoting member recommended by the Hoosier Environmental Council and appointed by the chairman of the legislative council.

(11) One (1) nonvoting member recommended by the Indiana

Chamber of Commerce and appointed by the chairman of the

legislative council.".

(Reference is to HB 1602 as printed February 16, 2005.)

DVORAK

Motion prevailed. The bill was ordered engrossed.

House Bill 1605

Representative Walorski called down House Bill 1605 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1605–1)

Mr. Speaker: I move that House Bill 1605 be amended to read as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE JANUARY 1, 2006]".

Page 2, line 3, delete ":".

Page 2, line 4, delete "(1)".

Page 2, run in lines 3 through 4.

Page 2, line 4, delete ";" and insert "**.**".

Page 2, delete lines 5 through 6.

Page 2, line 9, delete "." and insert "**and has a relationship with a co-employed individual.**".

Page 7, line 25, delete "audited" and insert "**reviewed**".

Page 7, delete lines 28 through 34.

Page 7, line 35, delete "July 1, 2005," and insert "**January 1, 2006,**".

Page 7, line 36, delete "January" and insert "**July 1, 2006.**".

Page 7, delete line 37.

Page 7, line 39, delete "June 30," and insert "**December 31, 2006.**".

Page 7, delete line 40.

Page 9, line 37, delete "one hundred" and insert "**fifty**".

Page 9, line 37, delete "($100,000);" and insert "**($50,000);**".

Page 9, line 38, delete "." and insert "**with a market value of at least fifty thousand dollars ($50,000).**".

(Reference is to HB 1605 as printed February 16, 2005.)

WALORSKI

Motion prevailed. The bill was ordered engrossed.

House Bill 1651

Representative Richardson called down House Bill 1651 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1747

Representative Budak called down House Bill 1747 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1747–1)

Mr. Speaker: I move that House Bill 1747 be amended to read as follows:

Page 3, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 3. IC 6-1.1-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2005 (RETROACTIVE)]: Sec. 9. (a) An individual may obtain a deduction from the assessed value of the individual's real property, or mobile home or manufactured home which is not assessed as real property, if:

(1) the individual is at least sixty-five (65) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;

(2) the combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of:

(A) the individual and the individual's spouse; or

(B) the individual and all other individuals with whom:

(i) the individual shares ownership; or

(ii) the individual is purchasing the property under a contract;

as joint tenants or tenants in common;

for the calendar year preceding the year in which the deduction is claimed did not exceed ~~twenty-five~~ **thirty-five** thousand dollars ~~($25,000),~~ **($35,000);**

(3) the individual has owned the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction; or the individual has been buying the real property, mobile home, or manufactured home under a contract that provides that the individual is to pay the property taxes on the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction, and the contract or a memorandum of the contract is recorded in the county recorder's office;

(4) the individual and any individuals covered by subdivision (2)(B) reside on the real property, mobile home, or manufactured home;

(5) the assessed value of the real property, mobile home, or manufactured home does not exceed one hundred forty-four thousand dollars ($144,000); and

(6) the individual receives no other property tax deduction for the year in which the deduction is claimed, except the deductions provided by sections 1, 37, and 38 of this chapter.

(b) Except as provided in subsection (h), in the case of real property, an individual's deduction under this section equals the lesser of:

(1) one-half (½) of the assessed value of the real property; or

(2) twelve thousand four hundred eighty dollars ($12,480).

(c) Except as provided in subsection (h) and section 40.5 of this chapter, in the case of a mobile home that is not assessed as real property or a manufactured home which is not assessed as real property, an individual's deduction under this section equals the lesser of:

(1) one-half (½) of the assessed value of the mobile home or manufactured home; or

(2) twelve thousand four hundred eighty dollars ($12,480).

(d) An individual may not be denied the deduction provided under this section because the individual is absent from the real property, mobile home, or manufactured home while in a nursing home or hospital.

(e) For purposes of this section, if real property, a mobile home, or a manufactured home is owned by:

(1) tenants by the entirety;

(2) joint tenants; or

(3) tenants in common;

only one (1) deduction may be allowed. However, the age requirement is satisfied if any one (1) of the tenants is at least sixty-five (65) years of age.

(f) A surviving spouse is entitled to the deduction provided by this section if:

(1) the surviving spouse is at least sixty (60) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;

(2) the surviving spouse's deceased husband or wife was at least sixty-five (65) years of age at the time of a death;

(3) the surviving spouse has not remarried; and

(4) the surviving spouse satisfies the requirements prescribed in subsection (a)(2) through (a)(6).

(g) An individual who has sold real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property may not claim the deduction provided under this section against that real property.

(h) In the case of tenants covered by subsection (a)(2)(B), if all of the tenants are not at least sixty-five (65) years of age, the deduction allowed under this section shall be reduced by an amount equal to the deduction multiplied by a fraction. The numerator of the fraction is the number of tenants who are not at least sixty-five (65) years of age, and the denominator is the total number of tenants.".

Page 26, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 11. [EFFECTIVE MARCH 1, 2005 (RETROACTIVE)] **IC 6-1.1-12-9, as amended by this act, applies to property taxes first due and payable after December 31, 2005. Notwithstanding IC 6-1.1-12-10.1, an individual who qualifies for a property tax deduction under IC 6-1.1-12-9, as amended by this act, for real property may, in 2005, file for the deduction before August 1, 2005. An application filed before August 1, 2005, first applies to property taxes first due and payable in 2006.**".

Renumber all SECTIONS consecutively.
(Reference is to HB 1747 as printed February 22, 2005.)
WELCH

Motion prevailed. The bill was ordered engrossed.

House Bill 1835

Representative Ayres called down House Bill 1835 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1835–3)

Mr. Speaker: I move that House Bill 1835 be amended to read as follows:

Page 3, between lines 25 and 26, begin a new paragraph and insert:

"**(g) The application of the credit under this chapter results in a reduction of the property tax collections of each political subdivision in which the credit is applied. A political subdivision may not increase its property tax levy to make up for that reduction.**".

(Reference is to HB 1835 as printed February 22, 2005.)
AYRES

Motion prevailed.

HOUSE MOTION
(Amendment 1835–1)

Mr. Speaker: I move that House Bill 1835 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) On or before August 1 of each year, the county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and the department of local government finance. The statement shall contain:

(1) information concerning the assessed valuation in the political subdivision for the next calendar year;

(2) an estimate of the taxes to be distributed to the political subdivision during the last six (6) months of the current calendar year;

(3) the current assessed valuation as shown on the abstract of charges;

(4) the average growth in assessed valuation in the political subdivision over the preceding three (3) budget years, excluding years in which a general reassessment occurs, determined according to procedures established by the department of local government finance; ~~and~~

(5) information concerning credits applicable under IC 6-1.1-21-5.8 to taxes first due and payable in the next calendar year; and

~~(5)~~ **(6)** any other information at the disposal of the county auditor that might affect the assessed value used in the budget adoption process.

(b) The estimate of taxes to be distributed shall be based on:

(1) the abstract of taxes levied and collectible for the current calendar year, less any taxes previously distributed for the calendar year; and

(2) any other information at the disposal of the county auditor which might affect the estimate.

(c) The fiscal officer of each political subdivision shall present the county auditor's statement to the proper officers of the political subdivision.

(d) The officers of a political subdivision shall adjust the assessed value used in setting rates for the taxes first due and payable in a calendar year in which credits apply under IC 6-1.1-21-5.8 to eliminate or minimize levy reductions that would otherwise result from the application of those credits.".

Page 3, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 3. IC 6-1.1-21-5.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.8. (a) The following definitions apply throughout this section:**

(1) "Adjusted gross income" has the meaning set forth in IC 6-3-1-3.5.

(2) "Assets":

(A) include:

(i) real property, other than the homestead with respect to which a qualifying individual applies for a credit under this section;

(ii) cash;

(iii) savings accounts;

(iv) stocks;

(v) bonds; and

(vi) any other investment; and

(B) do not include:

(i) the cash value of life insurance policies on the life of the qualifying individual or the qualifying individual's spouse; and

(ii) tangible personal property.

(3) "Fiscal body" has the meaning set forth in IC 36-1-2-6.

(4) "Homestead" has the meaning set forth in IC 6-1.1-20.9-1(2).

(5) "Household income" means the combined adjusted gross income of the qualifying individual and the qualifying individual's spouse.

(6) "Net property tax bill" means the amount of property taxes currently due and payable in a particular calendar year after the application of all deductions and credits, except for the credit provided by this section and the credit provided by section 5.7 of this chapter, as evidenced by the tax statement referred to in IC 6-1.1-22-8.

(7) "Net worth" means the remainder of:

(A) the sum of the current market value of all assets; minus

(B) all outstanding liabilities.

(8) "Qualifying individual" means an individual:

(A) who is liable for the payment of property taxes on a qualifying homestead;

(B) whose adjusted gross income for the individual's most recent taxable year that ends before the date on which the claim is filed under subsection (e) is less than seventy-five thousand dollars ($75,000); and

(C) who is not married and has a net worth, or has a net worth in combination with the net worth of the individual's spouse, of less than two hundred thousand dollars ($200,000) as of December 31 of:

(i) with respect to real property, the year that precedes by two (2) years the year for which the individual wishes to obtain the credit under this section; and

(ii) with respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the year that immediately precedes the year for which the individual wishes to obtain the credit under this section.

(9) "Qualifying homestead" means a homestead:

(A) that a qualifying individual owned; or

(B) on which a qualifying individual assumed liability for the payment of property taxes;

at least five (5) years before the assessment date for the homestead in the year for which the qualifying individual wishes to obtain the credit under this section and that has an assessed value of not more than one hundred eighty thousand dollars ($180,000) as of the assessment date for the homestead in the year that immediately precedes the year for which the qualifying individual wishes to obtain the credit under this section.

(10) "Taxable year" has the meaning set forth in IC 6-3-1-16.

(b) The credit provided by this section applies in a county for property taxes first due and payable in a calendar year only if the county fiscal body of the county adopts an ordinance to apply the credit before April 1 of the immediately preceding calendar year. An ordinance adopted under this subsection may authorize the credit for more than one (1) year.

(c) Except as provided in subsection (d), each year a qualifying individual in a county in which the credit provided by this section

is authorized under subsection (b) may receive a credit against the net property tax bill on the individual's qualifying homestead. The amount of the credit to which a qualifying individual is entitled equals the lesser of two thousand dollars ($2,000) or the remainder of:

(1) the amount of the net property tax bill without the application of the credit provided by this section; minus

(2) the following percentage of the qualifying individual's adjusted gross income for the qualifying individual's most recent taxable year that ends before the date on which the claim is filed under subsection (e):

(A) Five percent (5%) if the adjusted gross income is less than twenty thousand dollars ($20,000).

(B) Seven percent (7%) if the adjusted gross income is at least twenty thousand dollars ($20,000) but less than fifty thousand dollars ($50,000).

(C) Nine percent (9%) if the adjusted gross income is at least fifty thousand dollars ($50,000) but less than seventy-five thousand dollars ($75,000).

(d) If the qualifying individual resides in the qualifying homestead with the qualifying individual's spouse, those individuals are together entitled to one (1) credit under this section for the qualifying homestead. The amount of the credit is determined under subsection (c), except that the household income is substituted for the qualifying individual's adjusted gross income.

(e) A qualifying individual or a qualifying individual and the qualifying individual's spouse who desire to claim the credit provided by this section must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the qualifying homestead is located. With respect to real property, the statement must be filed after January 1 and before May 11 of the year before the year for which the qualifying individual or the qualifying individual and the qualifying individual's spouse wish to obtain the credit under this section. For a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed after January 1 and before March 2 of the year for which the qualifying individual or the qualifying individual and the qualifying individual's spouse wish to obtain the credit under this section. The statement must contain the following information:

(1) The full name or names and complete address of the qualifying individual or the qualifying individual and the qualifying individual's spouse.

(2) A description of the qualifying homestead.

(3) The amount of:

(A) the qualifying individual's adjusted gross income referred to in subsection (c)(2); or

(B) if subsection (d) applies, the household income referred to in subsection (d) of the qualifying individual and the qualifying individual's spouse.

(4) The name of any other county and township in which the qualifying individual or the qualifying individual's spouse owns or is buying on contract:

(A) real property; or

(B) a:

(i) mobile home; or

(ii) manufactured home;

that is not assessed as real property.

(5) The record number and page where the contract or memorandum of the contract is recorded if the qualifying homestead is under contract purchase.

(6) Proof of net worth as of the date specified in subsection (a)(8)(C):

(A) in a form determined by the department of local government finance; and

(B) including:

(i) income tax returns or other evidence detailing gross income; and

(ii) other documentation as determined by the department of local government finance.

(7) Any other information required by the department of local government finance.

(f) The auditor of a county with whom a statement is filed under subsection (e) shall immediately prepare and transmit a copy of the statement to the auditor of any other county if the qualifying individual who claims the credit or the qualifying individual's spouse owns or is buying property located in the other county as described in subsection (e)(4). The auditor of the other county described in subsection (e)(4) shall note on the copy of the statement whether a credit has been claimed under this section for a qualifying homestead located in the auditor's county. The auditor shall then return the copy to the auditor of the first county.

(g) Subject to subsection (h), if a proper certified credit statement is filed under subsection (e), the county auditor shall allow the credit and shall apply the credit equally against each installment of property taxes. The county auditor shall include the amount of the credit applied against each installment of property taxes on the tax statement required under IC 6-1.1-22-8.

(h) If the qualifying homestead qualifies for the credit under IC 6-1.1-20.6 and a statement to claim the credit under this section is filed under subsection (e), the county auditor shall:

(1) determine from the person who filed the statement whether the person elects to have applied:

(A) the credit under this section; or

(B) the credit under IC 6-1.1-20.6; and

(2) apply only the credit elected by that person as determined under subdivision (1).

(i) If an individual knowingly or intentionally files a false statement under this section, the individual must pay the amount of any credit the individual received because of the false statement, plus interest at the rate of ten percent (10%) per year, to the county auditor for distribution to the taxing units of the county in the same proportion that property taxes are distributed.

SECTION 4. IC 6-1.1-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Notwithstanding IC 6-1.1-26, any taxpayer who is entitled to a credit under this chapter or who has properly filed for and is entitled to a credit under IC 6-1.1-20.9, and who, without taking the credit, pays in full the taxes to which the credit applies, is entitled to a refund, without interest, of an amount equal to the amount of the credit. However, if the taxpayer, at the time a refund is claimed, owes any other taxes, interest, or penalties payable to the county treasurer to whom the taxes subject to the credit were paid, then the credit shall be first applied in full or partial payment of the other taxes, interest, and penalties and the balance, if any, remaining after that application is available as a refund to the taxpayer.

(b) Any taxpayer entitled to a refund under this section **other than a refund based on a credit under 5.8 of this chapter** shall be paid that refund from proceeds of the property tax replacement fund. However, with respect to any refund attributable to a homestead credit, the refund shall be paid from that fund only to the extent that the percentage homestead credit the taxpayer was entitled to receive for a year does not exceed the percentage credit allowed in IC 6-1.1-20.9-2(d) for that same year. Any refund in excess of that amount shall be paid from the county's revenue distributions received under IC 6-3.5-6.

(c) The state board of accounts shall establish an appropriate procedure to simplify and expedite the method for claiming these refunds and for the payments thereof, as provided for in this section, which procedure is the exclusive procedure for the processing of the refunds. The procedure shall, however, require the filing of claims for the refunds by not later than June 1 of the year following the payment of the taxes to which the credit applied.

SECTION 5. [EFFECTIVE UPON PASSAGE] **IC 6-1.1-21-5.8, as added by this act, applies only to property taxes first due and payable after December 31, 2005.**

SECTION 6. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 6-1.1-21-5.8(b), as added by this act, a county council may adopt an ordinance before July 1, 2005, to apply the credit authorized under IC 6-1.1-21-5.8, as added by this act, for property taxes first due and payable in 2006.**

(b) If a county fiscal body adopts an ordinance under subsection (a), a qualifying individual or a qualifying individual

and the qualifying individual's spouse who desire to claim the credit with respect to real property for property taxes first due and payable in 2006 may file the application for the credit referred to in IC 6-1.1-21-5.8(e), as added by this act, before August 1, 2005.

(c) This SECTION expires December 31, 2006.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1835 as printed February 22, 2005.)

HOY

Upon request of Representatives Hoy and Stilwell, the Chair ordered the roll of the House to be called. Roll Call 197: yeas 30, nays 48. Motion failed.

HOUSE MOTION
(Amendment 1835–2)

Mr. Speaker: I move that House Bill 1835 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-12-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) If the assessed value of residential real property described in subsection (d) is increased because ~~it~~ **the property** has been rehabilitated, the owner may have deducted from the assessed value of the property an amount not to exceed the lesser of:

(1) the total increase in assessed value resulting from the rehabilitation; or

(2) eighteen thousand seven hundred twenty dollars ($18,720) per rehabilitated dwelling unit.

The owner is entitled to this deduction annually for a five (5) year period.

(b) For purposes of this section, the term "rehabilitation" means ~~significant~~ repairs, replacements, **remodelings, additions,** or **other** improvements to an existing structure ~~which are intended to~~ **that** increase the ~~livability, utility, safety, or~~ value of the property. ~~under rules adopted by the department of local government finance.~~

(c) For the purposes of this section, the term "owner" or "property owner" includes any person who has the legal obligation, or has otherwise assumed the obligation, to pay the real property taxes on the rehabilitated property.

(d) The deduction provided by this section applies only for the rehabilitation of residential real property which is located within this state and which is described in one (1) of the following classifications:

(1) a single family dwelling if before rehabilitation the assessed value (excluding any exemptions or deductions) of the improvements does not exceed thirty-seven thousand four hundred forty dollars ($37,440);

(2) a two (2) family dwelling if before rehabilitation the assessed value (excluding exemptions or deductions) of the improvements does not exceed forty-nine thousand nine hundred twenty dollars ($49,920); and

(3) a dwelling with more than two (2) family units if before rehabilitation the assessed value (excluding any exemptions or deductions) of the improvements does not exceed eighteen thousand seven hundred twenty dollars ($18,720) per dwelling unit.

(e) If an assessed value increase referred to in subsection (a) is attributable to both rehabilitation and:

(1) a general reassessment of real property under IC 6-1.1-4-4; or

(2) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5;

the township assessor shall determine the amount of the increase attributable to rehabilitation to determine the deduction provided by this section. In making the determination under this subsection, the township assessor shall consider any information contained in the application under section 20(e) of this chapter.

SECTION 2. IC 6-1.1-12-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. **(a) Except as provided in subsection (b),** the deduction from assessed value provided by section 18 of this chapter is first available in the year in which the increase in assessed value resulting from the rehabilitation occurs and ~~shall continue~~ **continues** for **each of** the **immediately** following four (4) years in ~~the sixth (6th) year, the county auditor shall add the amount of the deduction to the assessed value of the real property.~~ **which the property owner remains the owner of the property as of the assessment date.**

(b) A property owner may:

(1) in a year after the year in which the increase in assessed value resulting from the rehabilitation occurs, obtain a deduction that:

(A) would otherwise first apply for the assessment date in 2005 or a later year; and

(B) was not made to the assessed value for any year; or

(2) obtain a deduction that:

(A) would otherwise have first applied for the assessment date in 2004 or an earlier year; and

(B) was not made to the assessed value for any year.

If the property owner obtains a deduction under this subsection, the deduction applies in the year for which the application is filed and continues for each of the immediately following four (4) years in which the property owner remains the owner of the property as of the assessment date.

(c) A general reassessment of real property which occurs within the five (5) year period of the deduction does not affect the amount of the deduction.

SECTION 3. IC 6-1.1-12-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) A property owner who desires to obtain the deduction provided by section 18 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the rehabilitated property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) **or (c),** the application must be filed before May 10 of the year in which the addition to assessed value is made.

(b) If notice of the addition to assessed value for any year is not given to the property owner before April 10 of that year, the application required by ~~this section~~ **subsection (a)** may be filed not later than thirty (30) days after the date ~~such a~~ **the** notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) An application for a deduction referred to in section 19(b) of this chapter with respect to an assessment date must be filed before the May 10 that next follows the assessment date.

~~(c)~~ **(d)** The application required by this section shall contain the following information:

(1) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(2) Statements of the ownership of the property.

(3) The assessed value of the improvements on the property before rehabilitation.

(4) The number of dwelling units on the property.

(5) The number of dwelling units rehabilitated.

(6) The increase in assessed value resulting from the rehabilitation. ~~and~~

(7) The amount of deduction claimed.

(e) The application required by this section may contain information to assist the township assessor in making the determination under section 18(e) of this chapter, including:

(1) fair market value appraisals before and after the rehabilitation; and

(2) general market data on the extent to which particular types of rehabilitation add to the value of a dwelling.

~~(d)~~ **(f)** A deduction application filed under this section is applicable for:

(1) the year ~~in~~ **for** which the ~~increase in assessed value occurs~~ **deduction application is filed;** and ~~for~~

(2) each of the immediately following four (4) years **in which the property owner remains the owner of the property as of the assessment date;**

without any additional application being filed.

~~(e)~~ **(g)** On verification of an application by the assessor of the township in which the property is located, the county auditor shall

make the deduction.

SECTION 4. IC 6-1.1-12-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) If the assessed value of property is increased because ~~it~~ **the property** has been rehabilitated and the owner has paid at least ten thousand dollars ($10,000) for the rehabilitation, the owner is entitled to have deducted from the assessed value of the property an amount equal to fifty percent (50%) of the increase in assessed value resulting from the rehabilitation. The owner is entitled to this deduction annually for a five (5) year period. However, the maximum deduction which a property owner may receive under this section for a particular year is:

(1) one hundred twenty-four thousand eight hundred dollars ($124,800) for a single family dwelling unit; or

(2) three hundred thousand dollars ($300,000) for any other type of property.

(b) For purposes of this section, the term "property" means a building or structure which was erected at least fifty (50) years before the date of application for the deduction provided by this section. The term "property" does not include land.

(c) For purposes of this section, the term "rehabilitation" means ~~significant~~ repairs, replacements, **remodelings, additions,** or **other** improvements to an existing structure that ~~are intended to~~ increase the ~~livability, utility, safety, or~~ value of the property. ~~under rules adopted by the department of local government finance.~~

(d) If an assessed value increase referred to in subsection (a) is attributable to both rehabilitation and:

(1) a general reassessment of real property under IC 6-1.1-4-4; or

(2) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5;

the township assessor shall determine the amount of the increase attributable to rehabilitation to determine the deduction provided by this section. In making the determination under this subsection, the township assessor shall consider any information contained in the application under section 24(e) of this chapter.

SECTION 5. IC 6-1.1-12-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. **(a) Except as provided in subsection (b),** the deduction from assessed value provided by section 22 of this chapter is first available ~~after the first assessment date following~~ **in the year in which the increase in assessed value resulting from** the rehabilitation **occurs** and ~~shall continue~~ **continues** for ~~the taxes first due and payable in~~ **each of** the **immediately** following ~~five (5)~~ **four (4)** years in ~~the sixth (6th) year, the county auditor shall add the amount of the deduction to the assessed value of the property.~~ **which the property owner remains the owner of the property as of the assessment date.**

(b) A property owner may:

(1) in a year after the year in which the increase in assessed value resulting from the rehabilitation occurs, obtain a deduction that:

(A) would otherwise first apply for the assessment date in 2005 or a later year; and

(B) was not made to the assessed value for any year; or

(2) obtain a deduction that:

(A) would otherwise have first applied for the assessment date in 2004 or an earlier year; and

(B) was not made to the assessed value for any year.

If the property owner obtains a deduction under this subsection, the deduction applies in the year for which the application is filed and continues for each of the immediately following four (4) years in which the property owner remains the owner of the property as of the assessment date.

(c) Any general reassessment of real property which occurs within the five (5) year period of the deduction does not affect the amount of the deduction.

SECTION 6. IC 6-1.1-12-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) A property owner who desires to obtain the deduction provided by section 22 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) **or (c),** the application must be filed before May 10 of the year in which the addition to assessed ~~valuation~~ **value** is made.

(b) If notice of the addition to assessed ~~valuation~~ **value** for any year is not given to the property owner before April 10 of that year, the application required by ~~this section~~ **subsection (a)** may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) An application for a deduction referred to in section 23(b) of this chapter with respect to an assessment date must be filed before the May 10 that next follows the assessment date.

~~(c)~~ **(d)** The application required by this section shall contain the following information:

(1) The name of the property owner.

(2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(3) The assessed value of the improvements on the property before rehabilitation.

(4) The increase in the assessed value of improvements resulting from the rehabilitation. ~~and~~

(5) The amount of deduction claimed.

~~(d)~~ **(e) The application required by this section may contain information to assist the township assessor in making the determination under section 22(d) of this chapter, including:**

(1) fair market value appraisals before and after the rehabilitation; and

(2) general market data on the extent to which particular types of rehabilitation add to the value of property.

(f) A deduction application filed under this section is applicable for:

(1) the year ~~in~~ **for** which the ~~addition to assessed value is made~~ **deduction application is filed;** and ~~in~~

(2) each of the ~~immediate~~ **immediately** following four (4) years **in which the property owner remains the property owner as of the assessment date;**

without any additional application being filed.

~~(e)~~ **(g)** On verification of the correctness of an application by the assessor of the township in which the property is located, the county auditor shall make the deduction.".

Page 3, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE UPON PASSAGE] **IC 6-1.1-12-18 and IC 6-1.1-12-22, both as amended by this act, apply only to property taxes first due and payable after December 31, 2005.**

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION:**

(1) "assessment date" has the meaning set forth in IC 6-1.1-1-2; and

(2) "rehabilitation" has the meaning set forth in:

(A) IC 6-1.1-12-18(b), as amended by this act; and

(B) IC 6-1.1-12-22(c), as amended by this act.

(b) For property taxes first due and payable after December 31, 2005, a property owner may file an application before July 1, 2005, for a deduction:

(1) under:

(A) IC 6-1.1-12-19(b)(2), as amended by this act; or

(B) IC 6-1.1-12-23(b)(2), as amended by this act; or

(2) first applicable to the assessment date in 2005 under:

(A) IC 6-1.1-12-20, as amended by this act; or

(B) IC 6-1.1-12-24, as amended by this act;

based on rehabilitation completed after March 1, 2004, and before March 2, 2005.

(c) This SECTION expires January 1, 2006.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1835 as printed February 22, 2005.)

ORENTLICHER

Motion failed. The bill was ordered engrossed.

Representative J. Lutz was excused for the rest of the day.

House Bill 1845

Representative Noe called down House Bill 1845 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1845–1)

Mr. Speaker: I move that House Bill 1845 be amended to read as follows:

Page 13, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 11. IC 4-12-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The budget agency shall assist the budget committee in the preparation of the budget report and the budget bill, using the recommendations and estimates prepared by the budget agency and the information obtained through investigation and presented at hearings. The budget committee shall consider the data, information, recommendations and estimates before it and, to the extent that there is agreement on items, matters and amounts between the budget agency and a majority of the members of the budget committee, the committee shall organize and assemble a budget report and a budget bill or budget bills. In the event the budget agency and a majority of the members of the budget committee shall differ upon any item, matter, or amount to be included in such report and bills, the recommendation of the budget agency shall be included in the budget bill or bills, and the particular item, matter or amount, and the extent of and reasons for the differences between the budget agency and the budget committee shall be stated fully in the budget report. Before the second Monday of January, in the year immediately after preparation, the budget report and the budget bill or bills shall be submitted to the governor by the budget committee. The governor shall deliver to the house members of the budget committee such bill or bills for introduction into the house of representatives.

(b) The budget report and budget bill required under subsection (a) must present a budget that is based on a full accrual basis in accordance with the best practices used by governmental entities and that apply generally accepted accounting principles (as defined in IC 5-11-1-2(a)) to governmental budgets.

~~(b)~~ **(c)** Whenever during the period beginning thirty (30) days prior to a regular session of the general assembly the budget report and budget bill or bills have been completed and printed and are available for distribution, upon the request of a member of the general assembly an informal distribution of one (1) copy of each such document shall be made by the budget committee to such members. During business hours, and as may be otherwise required during sessions of the general assembly, the budget agency shall make available to the members of the general assembly so much as they shall require of its accumulated staff information, analyses and reports concerning the fiscal affairs of the state and the current budget report and budget bill or bills.

~~(c)~~ **(d)** The budget report shall include at least the following five (5) parts;

(1) A statement of budget policy, including but not limited to recommendations with reference to the fiscal policy of the state for the coming budget period, and describing the important features of the budget.

(2) A general budget summary setting forth the aggregate figures of the budget to show the total proposed expenditures and the total anticipated income, and the surplus or deficit.

(3) The detailed data on actual receipts and expenditures for the previous fiscal year or two (2) fiscal years depending upon the length of the budget period for which the budget bill or bills is proposed, the estimated receipts and expenditures for the current year, and for the ensuing budget period, and the anticipated balances at the end of the current fiscal year and the ensuing budget period. Such data shall be supplemented with necessary explanatory schedules and statements, including a statement of any differences between the recommendations of the budget agency and of the budget committee.

(4) A description of the capital improvement program for the state and an explanation of its relation to the budget.

(5) The budget bills.

~~(d)~~ **(e)** The budget report shall cover and include all special and dedicated revenue funds as well as the general revenue fund and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

~~(e)~~ **(f)** The budget agency shall furnish the governor with any further information required concerning the budget, and upon request shall attend hearings of committees of the general assembly on the budget bills.

SECTION 2. IC 5-11-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a) For purposes of this section "generally accepted accounting principles" means the uniform minimum standards of and guidelines to financial accounting and reporting established by the Governmental Accounting Standards Board (GASB).**

~~(a)~~ **(b)** The state board of accounts shall formulate, prescribe, and install a system of accounting and reporting in conformity with this chapter, which must comply with the following:

(1) Be uniform for every public office and every public account of the same class and contain written standards that an entity that is subject to audit must observe.

(2) Exhibit true accounts and detailed statements of ~~funds~~ **money** collected, received, obligated, and expended for or on account of the public for any and every purpose whatever, and by all public officers, employees, or other individuals.

(3) Show the receipt, use, and disposition of all public property and the income, if any, derived from the property.

(4) Show all sources of public income and the amounts due and received from each source.

(5) Show all receipts, vouchers, contracts, obligations, and other documents kept, or that may be required to be kept, to prove the validity of every transaction.

(6) Require that financial reports for:

(A) the state;

(B) cities;

(C) counties;

(D) public hospitals; and

(E) towns;

be in accordance with generally accepted accounting principles.

(c) The state board of accounts shall formulate or approve all statements and reports necessary for the internal administration of the office to which the statements and reports pertain.

(d) The state board of accounts shall approve all reports that are published or that are required to be filed in the office of state examiner.

(e) The state board of accounts shall from time to time make and enforce changes in the system and forms of accounting and reporting as necessary to conform to law.

~~(b)~~ **(f)** Notwithstanding subsection ~~(a),~~ **(b),** the state board of accounts may not require a municipality to use an electronic, automated, or computerized system of accounting and reporting. However, if a municipality elects to use an electronic, automated, or computerized system of accounting, the system must conform to the requirements of this chapter.

SECTION 3. IC 6-1.1-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. **The estimated budget must be based on a full accrual basis in accordance with the best practices used by governmental entities and that apply generally accepted accounting principles (as defined in IC 5-11-1-2(a)) to governmental budgets.** The political subdivision shall give notice by publication to taxpayers of:

(1) the estimated budget;

(2) the estimated maximum permissible levy;

(3) the current and proposed tax levies of each fund; and

(4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing.

(b) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):

(1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

(c) The trustee of each township in the county shall estimate the amount necessary to meet the cost of ~~poor relief~~ **township assistance** in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of ~~poor relief.~~ **township assistance.** The taxes collected as a result of the tax rate adopted under this subsection are credited to the township ~~poor relief~~ **assistance** fund.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1845 as printed February 22, 2005.)

CRAWFORD

Upon request of Representatives Crawford and Bauer, the Chair ordered the roll of the House to be called. Roll Call 198: yeas 34, nays 45. Motion failed.

HOUSE MOTION
(Amendment 1845–2)

Mr. Speaker: I move that House Bill 1845 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 11 with "[EFFECTIVE UPON PASSAGE]".

Page 3, line 13, delete "2007, which shall be computed before December 31, 2006." and insert "**2005. Notwithstanding the general rule of this subsection, the budget agency shall compute the first estimate required under this subsection not later than April 1, 2005.**".

Page 3, line 21, delete "2007," and insert "**2005,**".

Page 3, line 22, delete "2007." and insert "**2005.**".

Page 8, line 33, delete ":".

Page 8, line 34, delete "(1) for state fiscal years ending before July 1, 2007,".

Page 8, line 34, strike "state".

Page 8, line 35, strike "spending cap determined under section 2 of this".

Page 8, line 35, delete "chapter; and" and insert "~~chapter.~~".

Page 8, delete line 36.

Page 8, run in lines 33 through 37.

Page 8, delete lines 39 through 42.

Delete page 9.

Page 10, delete lines 1 through 28.

Page 10, line 31, delete "After June 30, 2007, the" and insert "**The**".

Page 11, delete lines 2 through 42.

Page 12, delete lines 1 through 32.

Page 13, line 20, delete "IC 4-10-21-3; IC 4-10-21-4." and insert "IC 4-10-21-2; IC 4-10-21-3, IC 4-10-21-4; IC 4-20-21-5; IC 4-10-21-6; IC 4-10-21-7; IC 4-10-21-8.".

Page 13, after line 20, begin a new paragraph and insert:

"SECTION 12. [EFFECTIVE UPON PASSAGE] **Notwithstanding IC 2-2.1-4-8(a), as added by this act, the budget agency shall submit to the executive director of the legislative services agency not later than April 3, 2005, the report described under IC 2-2.1-4-8(a), as added by this act, in an electronic format under IC 5-14-6.**

SECTION 13. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1845 as printed February 22, 2005.)

GOODIN

Upon request of Representatives Goodin and Dobis, the Chair ordered the roll of the House to be called. Roll Call 199: yeas 35, nays 45. Motion failed.

HOUSE MOTION
(Amendment 1845–5)

Mr. Speaker: I move that House Bill 1845 be amended to read as follows:

Page 8, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 2. IC 4-10-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 15, 2005]: Sec. 1. As used in this chapter:

"Adjusted personal income" for a particular calendar year means the adjusted state personal income for that year as determined under section 3(b) of this chapter.

"Annual growth rate" for a particular calendar year means the percentage change in adjusted personal income for the particular calendar year as determined under section 3(c) of this chapter.

"Budget director" refers to the director of the budget agency established under IC 4-12-1.

"Costs" means the cost of construction, equipment, land, property rights (including leasehold interests), easements, franchises, leases, financing charges, interest costs during and for a reasonable period after construction, architectural, engineering, legal, and other consulting or advisory services, plans, specifications, surveys, cost estimates, and other costs or expenses necessary or incident to the acquisition, development, construction, financing, and operating of an economic growth initiative.

"Current calendar year" means a calendar year during which a transfer to or from the fund is initially determined under sections 4 and 5 of this chapter.

"Economic growth initiative" means:

(1) the construction, extension, or completion of sewerlines, waterlines, streets, sidewalks, bridges, roads, highways, public ways, and any other infrastructure improvements;

(2) the leasing or purchase of land and any site improvements to land;

(3) the construction, leasing, or purchase of buildings or other structures;

(4) the rehabilitation, renovation, or enlargement of buildings or other structures;

(5) the leasing or purchase of machinery, equipment, or furnishings; or

(6) the training or retraining of employees whose jobs will be created or retained as a result of the initiative.

"Fund" means the counter-cyclical revenue and economic stabilization fund established under this chapter.

"General fund revenue" means all general purpose tax revenue and other unrestricted general purpose revenue of the state, including federal revenue sharing monies, credited to the:

(1) state general fund; **or**

(2) property tax replacement fund;

and from which appropriations may be made. The term "general fund revenue" does not include revenue held in the reserve for tuition support under IC 4-12-1-12.

"Implicit price deflator for the gross national product" means the implicit price deflator for the gross national product, or its closest equivalent, which is available from the United States Bureau of Economic Analysis.

"Political subdivision" has the meaning set forth in IC 36-1-2-13.

"Qualified economic growth initiative" means an economic growth initiative that is:

(1) proposed by or on behalf of a political subdivision to promote economic growth, including the creation or retention of jobs or the infrastructure necessary to create or retain jobs;

(2) supported by a financing plan by or on behalf of the political subdivision in an amount at least equal to the proposed amount of the grant under section 15 of this chapter; and

(3) estimated to cost not less than twelve million five hundred thousand dollars ($12,500,000).

"State personal income" means state personal income as that term is defined by the Bureau of Economic Analysis of the United States Department of Commerce or its successor agency.

"Total state general fund revenue" for a particular state fiscal year means the amount of that revenue for the particular state fiscal year as finally determined by the auditor of state.

"Transfer payments" means transfer payments as that term is defined by the Bureau of Economic Analysis of the United States Department of Commerce or its successor agency.

SECTION 3. IC 4-10-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) If the annual growth rate for the calendar year preceding the current calendar year exceeds two percent (2%), there is appropriated to the fund from the state general fund, for the state fiscal year beginning in the current calendar year, an amount equal to the product of:

(1) the total state general fund revenues for the state fiscal year

ending in the current calendar year; multiplied by

(2) the remainder of:

(A) the annual growth rate for the calendar year preceding the current calendar year; minus

(B) two percent (2%).

(b) If the annual growth rate for the calendar year immediately preceding the current calendar year is less than a negative two percent (-2%), there is appropriated from the fund to the state general fund **and the property tax replacement fund,** for the state fiscal year beginning in the current calendar year, an amount equal to the product of:

(1) the total state general fund revenues for the state fiscal year ending in the current calendar year; multiplied by

(2) negative one (-1); and further multiplied by

(3) the remainder of:

(A) the annual growth rate for the calendar year preceding the current calendar year; minus

(B) negative two percent (-2%).

The amount appropriated to each fund is proportional to the amount needed to balance each fund as described in section 9 of this chapter.

SECTION 4. IC 4-10-18-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) As soon as the auditor of state makes a final determination of the amount of total state general fund revenues for a particular state fiscal year, ~~he~~ **the auditor** shall certify that amount to the budget director.

(b) As soon as possible after receiving the certification from the auditor of state under subsection (a), the budget director shall determine the amount, if any, that is appropriated into or out of the fund under section 4 of this chapter. If an appropriation is made into the fund under section 4 of this chapter, the budget director shall immediately certify that amount to the treasurer of state. If an appropriation is made out of the fund under section 4 of this chapter, the budget director shall certify to the treasurer of state an amount equal to the part of the appropriation, if any, by which the general fund general operating budget **and the noncapital budget payable from the property tax replacement fund** for the state fiscal year for which the appropriation is made, exceeds the budget director's estimate of the total general fund revenues for that same state fiscal year. The budget director shall make the certification or certifications of money to be transferred out of the fund at the time or times that ~~he~~ **the budget director** determines the general fund general operating budget **and the noncapital budget payable from the property tax replacement fund** would exceed the total estimated state general fund revenues.

(c) Immediately upon receiving a certification from the budget director under subsection (b), the auditor of state and treasurer of state shall make the appropriate transfer into or out of the fund.

(d) Any amount, which is appropriated out of the fund under section 4 of this chapter, but which has not been transferred out of the fund under this section at the end of the state fiscal year for which the appropriation is made, shall revert to the fund.

SECTION 5. IC 4-10-18-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 15, 2005]: Sec. 8. (a) Except as provided in subsection (b), if the balance, at the end of a state fiscal year, in the fund exceeds ~~seven~~ **ten** percent ~~(7%)~~ **(10%)** of the total state general fund revenues for that state fiscal year, the excess is appropriated from the fund to the property tax replacement fund established under IC 6-1.1-21. The auditor of state and the treasurer of state shall transfer the amount so appropriated from the fund to the property tax replacement fund during the immediately following state fiscal year.

(b) If an appropriation is made out of the fund under section 4 of this chapter for a state fiscal year during which a transfer is to be made from the fund to the property tax replacement fund, the amount of the appropriation made under subsection (a) shall be reduced by the amount of the appropriation made under section 4 of this chapter. However, the amount of the appropriation made under subsection (a) may not be reduced to less than zero (0).

SECTION 6. IC 4-10-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. If the total state general fund revenues for a state fiscal year, in which a transfer into the fund is made, are less than the level estimated in the budget report prepared in accord with IC 4-12-1-12(a) or (c) and the shortfall cannot be attributed to a statutory change in the tax rate, the tax base, the fee schedules, or the revenue sources from which the general fund revenue estimate was made, there is appropriated from the fund to the state general fund an amount that may not exceed the lesser of the following two (2) amounts:

(1) the amount that was transferred into the fund during that state fiscal year; or

(2) the amount necessary to balance the general fund general operating budget **and the noncapital budget payable from the property tax replacement fund** for that state fiscal year.".

Page 13, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 16. [EFFECTIVE JUNE 15, 2005] **(a) IC 4-10-18-1, as amended by this act, applies to deposits in the counter-cyclical revenue and economic stabilization fund made after June 14, 2005.**

(b) IC 4-10-18-4, IC 4-10-18-5, and IC 4-10-18-9, all as amended by this act, apply only to distributions from the counter-cyclical revenue and economic stabilization fund after June 30, 2005.

SECTION 17. [EFFECTIVE JUNE 15, 2005] **IC 4-10-18-8, as amended by this act, applies to state fiscal years ending after June 30, 2005.**

SECTION 18. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1845 as printed February 22, 2005.)

WELCH

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill.

After discussion, Representative Whetstone withdrew the point of order.

The question then was on the motion of Representative Welch. Upon request of Representatives Espich and Whetstone, the Chair ordered the roll of the House to be called. Roll Call 200: yeas 77, nays 1. Motion prevailed.

HOUSE MOTION
(Amendment 1845–4)

Mr. Speaker: I move that House Bill 1845 be amended to read as follows:

Page 13, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 11. IC 6-1.1-21-2.3, AS ADDED BY HB 1001-2005, SECTION 58, IS AMENDED TO READ TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.3. (a) As used in this section, "distribution limit" means for credits granted against tax liability first due and payable in:

(1) ~~2006,~~ **2010,** two billion ninety-nine million one hundred nine thousand one hundred ninety-seven dollars ($2,099,109, 197); and

(2) ~~2007,~~ **2011,** two billion one hundred thirty-six million four hundred nine thousand one hundred ninety-seven dollars ($2,136,409, 197).

(b) Based on the department's final determinations of distribution under sections 4 and 9 of this chapter, the department shall annually certify the following to the department of local government finance for each county:

(1) The final determination of the amount of property tax replacement credits granted under section 5 of this chapter in the immediately preceding year and the final determination of the distribution made under this chapter to replace revenue lost from the granting of property tax replacement credits.

(2) The final determination of the amount of homestead credits granted under IC 6-1.1-20.9 in the immediately preceding year and the final determination of the distribution made under this chapter to replace revenue lost from the granting of homestead credits.

(3) The amount of additional credits granted under section 5 of this chapter to taxpayers in the taxing units with at least one (1) economic development district that meets the requirements of

section 5.5 of this chapter in the immediately preceding year and the final determination of the distribution made under this chapter to replace revenue lost from the granting of additional credits.

The certification for a county must be made before the department of local government finance certifies the budgets, tax rates, and tax levies for the county for the ensuing year under IC 6-1.1-17-16. The certification must be based on the best data available to the department at the time the certification is made and be in the form prescribed by the department of local government finance.

(c) Using the information certified under subsection (b) and any other data available to the department of local government finance, the department of local government finance shall calculate the maximum amount of property tax replacement credits, homestead credits, and additional credits that may be granted in each county in the ensuing year. The maximum amount of property tax credits, homestead credits, and additional credits that may be granted in a county in the ensuing year may not exceed the distribution limit for the ensuing year multiplied by a fraction. The numerator of the fraction is the total number of credits described in subsection (b) that were granted in the county in the immediately preceding year. The denominator of the fraction is the total number of credits described in subsection (b) that were granted in all counties in the immediately preceding year.

(d) If the department of local government finance determines that, without an adjustment under this section, the total amount of property tax replacement credits, homestead credits, and additional credits for which taxpayers in the county would be eligible in the ensuing year will exceed the maximum amount determined for the county under subsection (c), the department of local government finance shall reduce the property tax replacement credit percentages and the additional credit percentages that would otherwise apply in the county. The department of local government finance shall proportionately reduce the percentages used to compute the:

(1) property replacement credits granted under section 5(a) of this chapter and described in section 2(l)(2) of this chapter;

(2) property replacement credits granted under section 5(a) of this chapter and described in section 2(l)(3) of this chapter; and

(3) additional credits granted under section 5(d) of this chapter;

in the county in the ensuing year so that the total amount of all property tax replacement credits, homestead credits, and additional credits granted in the county is not likely to exceed the maximum amount determined for the county under subsection (c). If a reduction is required, the percentages described in section 2(l)(2) and 2(l)(3) of this chapter must be reduced by the same reduction percentage in all taxing units in the county. If the department determines that reducing only the credits described in subdivisions (1) through (3) will not result in a total of credits granted in the county that is less than the maximum amount determined for the county under subsection (c), the department shall reduce the amount of property tax credits described in section 2(l)(1) of this chapter as needed to eliminate the excess.

(e) Not later than the date that the department of local government finance certifies budget, tax rates, and tax levies for the political subdivisions in a county under IC 6-1.1-17-16, the department of local government finance shall certify to the county's county auditor and each political subdivision in the county the:

(1) property tax replacement credit percentages and additional credit percentages that apply to each taxing district in the county in the ensuing year; and

(2) estimated distribution that each political subdivision in the county is estimated to receive to replace revenue lost from the granting of property tax replacement credits, homestead credits, and additional credits in the ensuing year.

(f) County auditors and the department shall use the property tax replacement credit percentages and the additional credit percentages certified under subsection (e)(1) in computing property tax replacement credits and additional credits in the ensuing calendar year.

(g) Before January 1, 2010:

(1) the department of local government finance shall certify credits; and

(2) sections 3, 4, and 9 of this chapter shall be applied;

without considering the distribution limit established by this section.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1845 as printed February 22, 2005.)

BAUER

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Bauer's amendment (1845–4) is not germane to House Bill 1845.

Rule 80 provides a member the right to amend a bill on subjects germane to the subject of the bill under consideration. Amendment 4 is germane to House Bill 1845 because both measures concern budgetary caps.

PELATH
BAUER

The Speaker Pro Tempore yielded the gavel to Representative Friend.

The question was, Shall the ruling of the Chair be sustained? Roll Call 201: yeas 46, nays 34. The ruling of the Chair was sustained.

Representative Friend yielded the gavel to the Speaker Pro Tempore.

There being no further amendments, the bill was ordered engrossed.

House Bill 1703

Representative Murphy called down House Bill 1703 for second reading. The bill was read a second time by title.

Representative Goodin rose to a point of order suggesting the absence of a quorum and requesting a quorum call.

The Chair ordered the roll of the House to be called to determine the presence or absence of a quorum. Roll Call 202: 46 present, 17 excused.

On the motion of Representative Foley, the House adjourned at 11:58 p.m., this twenty-fourth day of February, 2005, until Monday, February 28, 2005, at 10:00 a.m.

BRIAN C. BOSMA
Speaker of the House of Representatives

M. CAROLINE SPOTTS
Principal Clerk of the House of Representatives